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RIGHTS OF THE CHILD

Question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as basic measures needed for their eradication

Report of the working group on its third session

Chairman-Rapporteur: Mr. Iván Mora Godoy (Cuba)

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Introduction

1. The Commission on Human Rights, in paragraph 28 of its resolution 1996/85, requested its open-ended inter-sessional working group on a draft optional protocol to the Convention on the sale of children, child prostitution and child pornography to meet for a period of two weeks, or less if possible, prior to the fifty-third session of the Commission to pursue its mandate with a view to finalizing the draft optional protocol.

2. The Economic and Social Council, in its resolution 1996/288, authorized the working group to meet for a period of two weeks prior to the fifty-third session of the Commission.

I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

3. The working group met from 3 to 14 February and on 2 April 1997. The session of the working group was opened by a representative of the High Commissioner for Human Rights, who made a statement. During the session, the working group held nine meetings in plenary, on 3, 4, 7, 13 and 14 February 1997 and on 2 April 1997. Nine meetings were held in an informal drafting group.

B. Election of the Chairman-Rapporteur

4. At its first meeting, on 3 February 1997, The working group re-elected Mr. Iván Mora Godoy (Cuba), Chairman-Rapporteur.

C. Participation

5. The representatives of the following States members of the Commission attended the meetings of the working group, which were open to all members of the Commission: Algeria, Argentina, Austria, Bangladesh, Brazil, Canada, Chile, China, Colombia, Cuba, Czech Republic, Denmark, Egypt, Ethiopia, France, Germany, India, Italy, Japan, Mexico, Netherlands, Nicaragua, Pakistan, Philippines, Republic of Korea, Russian Federation, South Africa, Sri Lanka, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

6. The following States non-members of the Commission were represented by observers: Australia, Bolivia, Belgium, Costa Rica, Cyprus, Estonia, Finland, Hungary, Iran (Islamic Republic of), Morocco, New Zealand, Nigeria, Norway, Peru, Poland, Portugal, Romania, San Marino, Slovakia, Spain, Sweden, Syrian Arab Republic, Thailand and Yemen.

7. The following non-members States of the United Nations were also represented by observers: Holy See and Switzerland.

8. The following United Nations body was represented by observers: United Nations Children's Fund.

9. The following specialized agency was represented by an observer: International Labour Organization.

10. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers at the meetings: American Association of Jurists, Caritas Internationalis, Coalition Against Trafficking in Women, Defence for Children International, International Council of Women, International Federation Terre des Hommes, International Federation of University Women, International Federation of Women Lawyers, International Service for Human Rights and Women's International League for Peace and Freedom (WILPF).

11. The following other non-governmental organization was represented by an observer: NGO Group for the Convention on the Rights of the Child.

D. Documentation

12. The working group had before it the following documents:

E/CN.4/1997/WG.14/1	Provisional agenda
E/CN.4/1997/WG.14/2 and Add.1	Comments on the report of the working group - Note by the Secretary-General
E/CN.4/1996/101	Report of the working group on its second session
E/CN.4/1996/100	Report submitted by Mrs. Ofelia Calcetas-Santos, Special Rapporteur appointed in accordance with Commission on Human Rights resolution 1995/79
A/51/385	Letter dated 19 September 1996 from the Permanent Representative of Sweden to the United Nations addressed to the Secretary-General transmitting the Declaration and Agenda for Action adopted by the World Congress against Commercial Sexual Exploitation of Children (Stockholm, 27-31 August 1996)
A/51/456	Note by the Secretary-General transmitting the interim report of Ms. Ofelia Calcetas-Santos, Special Rapporteur of the Commission on Human Rights on the sale of children, child prostitution and child pornography

II. GENERAL DISCUSSION

A. General debate on the focus and scope of the optional protocol

13. At its 1st, 2nd, 3rd and 4th meetings on 3 and 4 February 1997 the working group, at the invitation of the Chairman-Rapporteur, held a general discussion on the focus and scope of a future optional protocol and the working methods to be followed with regard to its elaboration.

14. All participants agreed on the urgent need for action to address the sexual exploitation of children. In that connection some delegations made

reference to events in 1996, including the holding in Stockholm of the World Congress against Commercial Sexual Exploitation of Children, which had raised political consciousness and drawn public attention to the magnitude of this and related problems. It was stressed that advantage should be taken of this heightened awareness and that an optional protocol dealing with matters relating to the sexual exploitation of children should be drafted as soon as possible.

15. Many delegations stressed that a wide range of legal norms and practical measures existed to combat the sexual exploitation of children, notably those contained in the Convention on the Rights of the Child, programmes of action of the Commission on Human Rights and the Declaration and Agenda for Action adopted by the Congress in Stockholm. In this connection, the importance of strengthening the implementation of existing instruments was urged.

16. While some delegations were of the view that existing standards were generally adequate and that action was required to improve the implementation of the provisions of these standards, in particular those of articles 34 and 35 of the Convention on the Rights of the Child, many others were of the view that existing instruments did not offer an adequate level of protection to children and that an optional protocol was necessary to fill these gaps. However, all delegations were of the view that the optional protocol should complement and strengthen the implementation of the Convention on the Rights of the Child.

17. Most delegations agreed that the future optional protocol should be concise and focus on preventive measures, the criminalization of acts and penalization of offences committed against children as well as the rehabilitation of the child victims. All delegations speaking on this issue emphasized that the child victims of such crimes should not be penalized.

18. Many delegations expressed the view that the optional protocol should also cover the promotion of international cooperation of an administrative and judicial nature. A number of delegations suggested that provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment could be a useful basis for discussions regarding the issue of extradition. It was also suggested that attention should be focused on matters relating to extraterritorial jurisdiction. In addition, the view was expressed that consideration should be given to the provision of minimum standards for the treatment of child victims by law enforcement agencies, the judiciary and the legal system, particularly where children appeared as witnesses in court proceedings.

19. Divergent views were expressed with regard to the scope of the optional protocol. One view was that the sexual exploitation of children should be the focus of the optional protocol which would cover the sale of children for such purposes as well as the problems of child prostitution and child pornography. The other view was that the optional protocol should be broader in scope and encompass not only the previously mentioned issues but also the sale of children in any form or for any purpose, including in the case of illegal adoptions and trafficking in organs. The point was also raised that the

optional protocol should focus on the trafficking of children, especially transborder trafficking. There was general agreement that the issue of sex tourism should be addressed by the optional protocol.

20. In that regard, some delegations emphasized the need and importance of the optional protocol paying particular attention to the issue of child sex tourism which for many countries was a growing concern. Owing to socio-economic problems, the number of street children was increasing as was their vulnerability to such exploitation. Those delegations felt that child sex tourism was an integral part of the mandate of the working group and of child sexual exploitation.

21. Some delegations suggested that the optional protocol should focus attention on the prohibition of the distribution of child pornography through electronic media such as the Internet.

22. Several delegations were of the opinion that the optional protocol should draw attention to poverty and other social and economic problems as root causes of the exploitation of children and thus to the need for greater international cooperation in dealing with these matters. With regard to other preventive measures, the importance of educating and disseminating information to raise the awareness of both children and adults, inter alia to the dangers of child exploitation, was also highlighted.

23. The view was expressed that the optional protocol should provide for the international community to supply financial aid to some countries for the repatriation and reintegration of the children.

24. While some delegations considered that specific definitions were required in order to arrive at uniform legal commitments under the optional protocol, others were of the view that more general definitions would facilitate the speedy conclusion of the drafting of the optional protocol. The latter approach would offer flexibility to the respective national legislative frameworks in drawing up precise definitions of the acts to be penalized. Several delegations also proposed that in the event of no agreement being reached in the working group on the definitions of the phenomena to be addressed under the optional protocol, the task should be attended to by States parties at the national legislative level.

25. It was suggested that during the drafting of the optional protocol account should be taken of the contents of various provisions of the Convention as a means of improving the protection to be offered to children. Specific suggestions as to the precise contents of the definitions of the phenomena affecting children and the acts to be penalized were also put forward for consideration.

26. Those non-governmental organizations which participated in the debate of the working group and which had previously expressed doubts with regard to the necessity and effectiveness of the optional protocol, took the opportunity to assure the working group of their willingness to cooperate in the drafting process. The opinion was expressed that, although priority should be given to urgent implementation and coordination of existing instruments at national and international levels, the optional protocol should serve to bridge some of the

gaps and clarify ambiguities in existing international instruments. Moreover, one of the most important features of the protocol could be to ensure the monitoring of the implementation of the Convention on the Rights of the Child, of all other relevant international instruments and mechanisms, and of the Agenda for Action adopted at Stockholm. Furthermore, the interest of various NGOs in the outcome of the working group was recalled, as was their preference for an optional protocol which should, to the extent possible, fill all the gaps in the Convention on the Rights of the Child and not limit itself only to the question of the sexual exploitation of children.

27. There was all-round agreement to the proposals of the Chairman-Rapporteur as regards the working methods to be followed for proceeding with the drafting of the optional protocol in an informal group.

B. Views expressed by delegations on the draft optional protocol

28. In accordance with a proposal by the Chairman-Rapporteur, at the 1st meeting, the working group held a general debate in plenary meetings, after which it met as an informal drafting group to examine the text of the draft optional protocol and to make concrete drafting proposals. After consideration of the various proposals made on the provisions of the draft optional protocol, the group resumed its plenary meetings to permit delegations to present their views and opinions on the specific provisions as reflected in the annex to the present report. The present section reflects the opinions expressed by some delegations on the text of the articles of the draft protocol.

General

29. The representative of the Russian Federation suggested to combine section A of the present report on the general debate with section B reflecting the views expressed by the delegations.

30. The representative of the United Kingdom stated that the implementation of present instruments, including the Convention on the Rights of the Child, would go a long way towards eradicating the problems of the sale of children, child prostitution and child pornography. However, his delegation viewed the optional protocol positively and believed that it could be an important element in the follow-up to the Stockholm Congress.

31. The representative of France said that, in view of the difficulties encountered by the group in making rapid progress in its work, the minimum objective of the following session should be to reiterate in the draft protocol all the commitments undertaken unanimously by States at the Stockholm Congress.

32. In the view of the delegation of the Netherlands, it was clear that hardly any progress had been made at the present session. The lengthy debate on definitions and its outcome - a text full of square brackets - made clear that the speedy adoption of a protocol would not be feasible if the working group continued to try to define the phenomena in such a way that all States could accept. Legal and penal systems were different. The possibility of overcoming the differences in this respect seemed very small. The

representative added that the manner in which the group worked was not conducive to a speedy conclusion of its task. A clear and more focused working method should be adopted. He furthermore expressed the opinion that the draft report was not completely balanced. In order to save time, however, he would not make further suggestions to amend the draft report, as an extensive rewriting of the report would be necessary to restore the balance. He also emphasized that although children's rights were of major importance, human rights remained universal and indivisible.

33. The representative of Mexico strongly regretted the limited accomplishments of the third session of the working group. Much time had been lost, and important topics such as education had not been discussed at all. Mexico was deeply committed to the integral development of its children, which was why it would continue enthusiastically to support the working group's initiative to prepare an optional draft protocol that vouchsafed protection to the world's children against the offences under discussion. Mexico was convinced that the principle that should govern negotiations among sovereign States was the best interests of the child, and his country was concerned to observe that, on the present occasion, different interests had emerged which were being placed ahead of those interests, in contravention of the Convention on the Rights of the Child, particularly article 3, paragraph 1. He urged all delegations, and especially those that had had the biggest problems during the present session, to find a common solution on behalf of children before the next meeting.

34. The representative of Nicaragua welcomed the changed climate in the working group, where the trench warfare of the previous session had been replaced by a positive atmosphere of cooperation and collaboration, the result of a marked shift in the positions of delegations opposed to the draft protocol. He urged those delegations to maintain that spirit during the fifty-third session of the Commission on Human Rights so as to avoid repeating past mistakes that had led to pointless, unproductive confrontations.

35. The representative of Colombia expressed his satisfaction at the success of the work on the draft protocol, which he considered of vital importance for doing away with practices that harmed the bodies and souls of children. Significant progress had been made during the session. The very fact that there was now a consensus on the need for an international instrument aimed at protecting minors against the sale of children and their exploitation in pornography, prostitution and sex tourism was a great step forward. The fact that definitions of those acts were included in the draft text represented major legal advances, as international legal standards had now been established for preventing special cultural or legal considerations from being invoked against the penalization of practices that were growing as cross-border "industries". The productive debates on much of the text had helped its substantive aspects to evolve, thereby contributing to the effectiveness of the instrument that would eventually result. His delegation was particularly concerned because, in some instances, in the interests of safeguarding such substantive rights as freedom of the press and of information, other rights of equal importance for humanity, such as the rights of the child, were being subordinated or disregarded. In conformity with the principles of the indivisibility, interdependence and universality of human

rights, the working group should strive for balanced treatment so that the protection of children was not diminished in favour of interests that placed commercial concerns above the human being.

36. The representative of Cuba said that the current session of the working group had been marked by a positive atmosphere. The change in political will, primarily among countries that had previously opposed the drafting exercise, represented an international response to a phenomenon which had been plainly in evidence in 1996. Work had proceeded productively and the results were apparent in the annex. The Chairman's methods had been effective. If they were combined with a real willingness to negotiate, one which isolated the superfluous interests that made the protection of the child dependent upon certain criteria, it might actually be possible to continue working at the next session so that the draft could be completed without further delay, without excluding the sale of children (art. 35 of the Convention), and specifying the phenomena of child prostitution, child pornography and sex tourism.

36. bis The observer for UNICEF stated that UNICEF supported the process of drafting an optional protocol on the sale of children, child prostitution and child pornography. It maintained, however, the importance of implementing existing international and national standards, such as the Convention on the Rights of the Child and the United Nations Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography adopted by the Commission on Human Rights in 1992. UNICEF wished to highlight a few points: it was not poverty alone but poverty together with other factors which led to the sexual exploitation of children; girls were clearly the vast majority of the victims; education and rehabilitation of the child victims were of crucial importance. UNICEF also suggested that in keeping with the Convention on the Rights of the Child, the United Nations Programme of Action and the Declaration and Agenda for Action adopted in Stockholm, the working group should be guided by the principle of the best interest of the child, which implied that the opinions of children will be considered and the participation of children included in all actions aimed at combating the sale of children, child prostitution and child pornography.

37. The representative of the United Kingdom indicated that many aspects of the sale of children, child prostitution, child pornography and child sex tourism dealt with in the chapter on definitions were already criminal acts under the law applicable in the United Kingdom. He further stated that it was the understanding of his delegation that States parties would not be required to legislate afresh in order to reproduce the exact words of the definitions contained in any future Protocol.

38. The representative of Cuba said that, given the current spirit of cooperation prevailing in the working group, articles 34 and 35 of the Convention must be the basis for the provisions if prompt, effective results were to be reached. States which were signatories to, or had ratified, the Convention had not expressed any reservations with regard to articles 34 and 35, which must be taken into account for the instrument to be sufficiently functional, effective and viable.

39. The importance of ensuring the consistency between the texts of the draft optional protocol in English, French and Spanish was emphasized. In this regard, it was noted, inter alia, that the Spanish text referred to "the use of children in prostitution" while the English text read "child prostitution/use of children in prostitution". It was suggested that the working group should address this matter on an urgent basis at its next session.

40. The observer for the International Labour Organization recalled that, in March 1996, the Governing Body of the ILO took the decision to include in the agenda of the eighty-sixth session (1998) of the International Labour Conference the question of child exploitation, with a view to adopting new international labour standards aiming at the promotion of measures to put an end immediately to the intolerable exploitation of children in a number of situations, including the use, engagement or offering of a child for prostitution, production of pornography or pornographic performances.

41. The observer for the International Federation of Women Lawyers suggested that the working group should include in its mandate, in addition to the issues of sale of children, child prostitution and child pornography, the issue of abduction which was a most common practice. In that regard, she recalled the recent tragic events in Belgium which would not be covered by the optional protocol if it were only limited to its mandate.

Chapter II: Definitions

42. The representative of the United States noted that the sale of children, child pornography, child prostitution and sex tourism were already prohibited under the laws of the United States. There were many different definitions of most of those offences under the criminal laws of the 50 states or of the Federal Government. If a new treaty were to be adopted which would require states to change their definitions, then the definitions should be legally precise. He expressed the view that the current definitions were inadequate and concern regarding the risk of divergent interpretations. He also expressed concern that the negotiations were not narrowing differences and stressed the need to focus on the areas where there was a consensus in order to conclude work on the protocol rapidly.

43. The representative of China expressed her delegation's regret that the definition of the sale of children did not include a direct reference to the problem of the trafficking of children.

44. With regard to the question of the definition of the sale of children, the delegations of Colombia, Costa Rica, Egypt, Ethiopia, Nicaragua, Nigeria, Peru and Uruguay also indicated their preference for wording that was broad and general and thus supported the proposal for the deletion of square brackets around the words "for any purpose or in any form" in the text of the definition in chapter II. The observer for Peru said that the definition of the sale of children should cover the problem of illegal adoption.

45. The representative of Cuba also expressed the view that the definition of the sale of children should be as comprehensive as possible and indicated her preference for the wording "for the purpose of sexual, economic or

criminal exploitation, including the illegal adoption, trading in and transplantation of organs for any form of compensation" in the text of the definition in chapter II. The representative cautioned that the preference for the speedy adoption of a protocol should not be used as an excuse for limiting its scope.

46. The observer for Nigeria expressed the opinion that a definition of the terms was necessary. Any definition of the sale of children should strike a balance between the market forces of supply and demand. However, his delegation would prefer to delete the section on definitions if that would save the negotiations.

47. The representative of Germany proposed that the definition of the sale of children should focus on the sale of children for the purpose of sexual exploitation; otherwise, it would be difficult to elaborate an instrument sufficiently operational and effective to address the problems which were at the heart of the working group's mandate. This position was shared by the delegations of Australia, Canada, Finland, France, Japan, the Netherlands, the Republic of Korea and the United States.

48. With regard to the sale of children, the representative of Italy expressed full agreement with the need for the optional protocol to focus on criminal acts relating to the sexual exploitation of children so as to avoid losing both focus and impact. At the same time, it seemed necessary to take into account the wording of article 35 of the Convention on the Rights of the Child. This objective problem should be further addressed at the next session of the working group and possible ways of reaching a consensus explored. This position was shared by the delegations of Finland, France, Mexico, Spain, Sweden and Switzerland.

49. The observer for Uruguay expressed her preference for the use of the word "negotiation" as it encompassed a wide range of situations including the traffic in children and would allow better protection of the child.

50. The representative of Colombia stated his preference for the use of the word "transfer" over "transaction" and "negotiation" as the connotation of the latter words was overtly commercial and thus inappropriate in describing situations affecting children.

51. With regard to the definition relating to child prostitution, the representative of Egypt expressed her delegation's preference for the deletion of the word "unlawful". By way of explanation, she stated that all sexual activities per se in the context of child prostitution were unlawful. Therefore, the issue of the age of consent was not relevant to the definition. This position was supported by the delegations of Canada, China, Cuba, Ethiopia, Italy, Mexico, Nigeria, Philippines and the Syrian Arab Republic.

52. The representative of Uruguay proposed the deletion of the square brackets around the words "even with the consent of the child" in the definition of child prostitution. This view was supported by the delegations of Brazil, Cuba, Egypt, Ethiopia and Nicaragua.

53. The representative of Ethiopia stated that retaining the words "even with the consent of the child" was consistent with the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

54. With regard to the same question, the delegations of Canada and Peru proposed the deletion of the words "even with the consent of the child", stating that it was superfluous as a child could not, in any circumstance, consent to prostitution. They were supported by the observer for Switzerland.

55. The representative of Uruguay said the concept of the age of consent which existed in some national legislations should not be confused with the concept of the age of majority.

56. The representative of Mexico emphasized that the issues surrounding the question of the consent of the child should be fully discussed at the next session of the working group.

Chapter IV: Penalization and protection of children/child victims

57. With respect to chapter IV of the draft optional protocol relating to penalization and protection of children/child victims, the representative of the Netherlands stressed the importance of maintaining the text of chapter IV (1) (d), namely "the use of children in sex tourism", in square brackets. She further stated her delegation's preference for the incorporation of the concept of child sex tourism in the definition of child prostitution. The representative explained that the definition of child sex tourism as presently worded was too broad and too vague and thus presented difficulties as regards its application at the national legislative level, particularly in her country which provided for the direct application of international standards. However, she expressed her delegation's willingness to consider alternatives that took into account her country's legal concerns.

58. It was decided that the text of chapter IV (1) (d) would be retained in square brackets.

59. The representative of the United States pointed out the important connection between the text of the second paragraph of chapter IV and the issue of child sex tourism. Including the concept of sex tourism in the protocol would not be meaningful unless States applied their domestic criminal laws in an extraterritorial manner to control the activities of their nationals in foreign countries.

60. The observers for Nigeria and the Islamic Republic of Iran insisted that paragraph 3 should be retained in the section on penalization. The observer for Nigeria explained that this paragraph should be reconsidered within the context of future discussions on definitions.

61. The observer for Nigeria expressed his delegation's preference for the title of chapter IV to read "Penalization and the protection of child victims". In this connection, he emphasized that issues relating to the

protection of children were already covered by the Convention on the Rights of the Child and the protocol should be complementary to the Convention by providing specific protection to child victims.

62. With regard to the second part of paragraph 4 dealing with extradition, the representative of Egypt stated that it was her delegation's understanding of that paragraph that it constituted an option but not an obligation for action by States parties.

63. The representative of the United Kingdom explained that the paragraphs on extraterritorial jurisdiction went much further than existing United Kingdom legislation on this matter and more than was appropriate. However, he indicated that as the text of those paragraphs had received general support within the working group, his delegation would not stand in the way of progress in the drafting of the optional protocol.

64. The observer for Peru expressed the view that the words "its nationals" should be deleted from paragraph 5, as the obligations provided for under this paragraph should cover non-nationals. This view was supported by the delegations of Canada, Cuba and Switzerland.

65. The representative of Egypt explained that under the Egyptian Constitution the extradition of nationals was prohibited. Therefore, she expressed a preference for retaining the words "its nationals" within the text of paragraph 5.

66. The representative of the United Kingdom explained that certain aspects of paragraph 5, in relation to extradition, went further than his delegation would have wished, but in the spirit of compromise his delegation would not stand in the way of progress in the drafting of the optional protocol.

67. The representative of China expressed the view that "the double criminality rule" mentioned in paragraph 5 in the section on extradition was a general rule relating to bilateral extradition practices and treaties. However, it was irrelevant to this optional protocol, since common standards on offences had been included in the protocol. Therefore, she suggested the deletion of the phrase "taking into account the double criminality rule". The representative of China felt that this suggestion was supported by many delegations.

68. The representative of Canada expressed a preference for the deletion of the word "judicial" from the title and paragraphs relating to "Mutual judicial assistance". She explained that the deletion of those words were required in order to ensure that the text of those paragraphs were compatible with common-law legal systems. The representative of the United States agreed to the deletion of the word "judicial" in the subtitle but not from the text of the relevant paragraphs. The reason was that other words would have to be added, and this should be done in the drafting group. The Chairman-Rapporteur decided that the issue should be addressed at the next session of the working group.

69. The observer for Belgium emphasized the importance of strengthening the legal position of the child victim in the judicial proceedings. If the

criminalization of the sexual exploitation of children was considered, due attention should be given to this; paragraph 2 of the section relating to the protection of children was reviewed in this respect. Paragraphs (d), (e) and (f), however, had to be discussed at the next session of the working group and were therefore in square brackets.

70. The representative of the Republic of Korea expressed concern over the inclusion of the words "liable to punishment" in article 2 bis. By way of explanation he stated that in the legislation of his country only children under the age of 14 were not penalized for the crime of prostitution.

71. The delegations of Uruguay and Ethiopia emphasized that child victims should not be punished or held criminally responsible.

72. The observer for Peru expressed his concern over the use of the word "victim" in connection with the concept of punishment or any other penalty.

73. The decision was taken to transfer paragraph 2 bis included in the section relating to the protection of children to the section addressing the issue of penalization. Paragraph 2 bis read as follows:

> "[States parties shall ensure that [children who are victims of] [children used in] the sale of children, child prostitution and child pornography are not further victimized] [liable to punishment] [for such offences]."

74. Many delegations expressed the view that paragraph 3 should be deleted as a result of the negotiations undertaken by Canada on paragraph 2 of the section dealing with the protection of children/child victims. In the view of the representative of Nicaragua paragraph 3 should be included and read as follows:

> "States Parties shall adopt all [necessary] [appropriate] measures to protect [,without prejudice to the rights of the accused,] the right to privacy of victims of sale of children, child prostitution and child pornography, [in particular by ensuring the confidentiality of files] [in particular by ensuring the non-dissemination] [in particular prohibiting the dissemination] [in particular by avoiding the dissemination] of information that could lead to the identification of such child victims."

Chapter V: International cooperation and coordination

75. The observer for Switzerland stressed the importance of cooperation between national authorities and non-governmental organizations in identifying and prosecuting persons committing acts prohibited by the protocol.

76. The representative of Uruguay supported by the observer for Costa Rica, stressed the importance of preventive measures and international cooperation in eradicating basic problems such as socio-economic ones, which made children more vulnerable to such practices.

77. The observer for Nigeria proposed the deletion of the square brackets around the word "assistance" in article G. This proposal was accepted by the working group.

78. The representative of Mexico proposed the insertion of the word "especially" between the words "children" and "from" in article H. This was agreed to by the working group.

Chapter VIII: Other matters

79. With regard to the structure of the future optional protocol, the observer for the Islamic Republic of Iran stated that several independent paragraphs addressing different issues had so far been proposed by the participants and were clustered under chapter VIII entitled "Other matters". In order to have an appropriate title so that chapter VIII would be commensurate with the other chapters and to create further interlinkage between its paragraphs which, in the view of his delegation, dealt with general principles, he proposed that chapter VIII, "Other matters", be replaced by a chapter entitled "General provisions" to be regarded as chapter I at the beginning of the draft protocol currently under consideration. The issue of definitions should also appear under chapter I as proposed above.

Annex

DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Part 1. Texts resulting from the debates held by the working group at its third session

The following texts reflect the outcome of the discussions in the working group at its third session.

CHAPTER II. DEFINITIONS 1/

Sale of children

Sale of children means any kind of [transfer] [transaction] [buying or selling] of a child between any person [natural or legal person] [having custody or control over the child] and any other person [natural or legal person] for any form of compensation or benefit [for them or a third party] [with a view to the exploitation of the child] [for the purpose of coercing or inducing the child into child prostitution or child pornography] [for the purpose of sexual, economic or criminal exploitation, including the illegal adoption, trading in and transplantation of organs for any form of compensation] [for any purpose or in any form].

Child prostitution

Child prostitution/the use of children in prostitution means the act of obtaining, procuring [or offering] [or facilitating] the services of a child to perform [unlawful] sexual acts, inducing a child to do so, or any other deliberate act intended for this purpose [even with the consent of the child] for any form of benefit.

Child pornography

Child pornography/the use of children in pornography means the representation [in any form] of a child engaged in explicit sexual activity or [of a sexual organ or the anal region of a child] [of the body of a child] the dominant characteristic of which is the depiction for a sexual purpose, [and includes the making, printing, publishing, importing, exporting, distributing, selling [advertising] [broadcasting] and possessing of such materials] [and includes the trading, publishing, dissemination and possession of such materials].

Child sex tourism

Child sex tourism means tourism organized with the intention to facilitate or effect [directly of indirectly] [the sale of children,] [child pornography], child prostitution or [any other unlawful sexual practices]. The Netherlands proposal on definitions reads as follows:

1/ If no agreement were to be reached on the proposed definitions, there is the Netherlands proposal, included in the annex as article 1.

[Article 1

1. For the purposes of this Protocol, States Parties shall define, in their legislation, sale of children, child prostitution, child pornography and [child sex tourism], in accordance with the objectives [of articles 34 and 35] of the Convention on the Rights of the Child and the present Protocol.

2. States Parties may in their definitions derogate from the majority age otherwise contained in their legislation.]

CHAPTER IV. PENALIZATION OF OFFENDERS AND PROTECTION OF [CHILDREN] [CHILD VICTIMS]

Penalization and prosecution

1. Each State Party shall ensure that the following activities, as defined in (chapter II or article ...) are offences under its criminal law and shall make these offences punishable by appropriate penalties which take into account their grave nature:

(a) Sale of children;

(b) [Exploitative] use of children in prostitution;

(c) [Exploitative] use of children in pornography [making, printing, importing, exporting, distributing, selling, [advertising], [broadcasting] and possession of child pornography] [or trading, publishing, dissemination and possession of such materials];

[(d) Use of children in sex tourism.]

[1 bis A corporation or any other legal person can be prosecuted consistent with the legal system of a State.]

Moved from section dealing with protection of children/child victims:

[States parties shall ensure that [children who are victims of] [children used in] sale of children, child prostitution and child pornography are not [liable to punishment] under/for such offences.]

2. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the above-mentioned offences in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the victim is a national of that State if that State considers it appropriate (article 5.1 of the Convention against Torture).
To be reconsidered during future negotiations on definitions:

[3. States Parties shall undertake measures and adopt such legislation as necessary aimed at prohibiting the production of, access to and dissemination of material containing, promoting and encouraging the sale of children, child prostitution and child pornography [through various means including electronic media and modern telecommunication facilities].]

Extradition

4. The offences referred to in article ... shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties, and shall be included as extraditable in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in these treaties.

If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Protocol as a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.

States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 2 (article 8 of the Convention against Torture).

5. If an extradition request is made with respect to an offence described in the first chapter and if the requested State does not or will not extradite [its nationals] the requested State [of the national] shall take suitable measures to submit the case to its authorities with a view to determining whether sufficient grounds exist to prosecute [taking into account the double criminality rule].

Mutual judicial assistance

[States Parties shall afford one another the greatest measure of assistance in connection with [criminal] proceedings brought in respect of any of the offences referred to in article ..., including the supply of all evidence at their disposal necessary for the proceedings.

States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them (article 9 paragraphs 1 and 2 of the Convention against Torture).

Seizure and confiscation

6. States Parties shall take all necessary and appropriate measures [for investigation and prosecution] to allow the seizure and confiscation [from persons convicted] [from the offenders] of the gains from the offences described in article ... [specifically funds, property, equipment and other assets used by those persons to commit or promote the commission of those offences] consistent with due process and other applicable laws.

Protection of [children] [child victims]

2. States Parties shall adopt all appropriate measures to protect the interests of child victims of the sale of children, child prostitution, child pornography and child sex tourism throughout the criminal proceedings, in particular by:

(a) 2/ Protecting the right to privacy of these victims, in particular by ensuring the [non-] [availability of measures to avoid] dissemination of information that could lead to the identification of such child victims;

(b) Facilitating the testimony of these victims through appropriate measures [and ensuring that these victims are not further victimized by these proceedings];

(c) Ensuring that the views or concerns of these victims shall be brought to the attention of the court, where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

[(d) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;

(e) Providing proper assistance to child victims throughout the legal process;

(f) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.]

4. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations including investigations aimed at establishing the age of the victim.

6. States Parties shall adopt measures in order to protect the safety and integrity of those persons and/or institutions involved in the prevention and/or protection and rehabilitation of child victims of these practices.

2/ See paragraph 73 of the report.

CHAPTER V. INTERNATIONAL COOPERATION AND COORDINATION

Article A

States Parties shall take all necessary steps to strengthen international cooperation by all appropriate means, including bilateral, multilateral and regional arrangements for the prevention, detection, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.

Article C

States Parties shall promote cooperation between their authorities and [relevant] [national and international non-governmental organizations] and international organizations with a view to the implementation of the purposes of the present Protocol.

[Article E

States Parties shall, through bilateral and multilateral cooperation, undertake to take such measures as are deemed effective [in eliminating the consumer market that nurtures] [in order to fight][the increase in] the sale of children, child prostitution, child pornography [and child sex tourism] [on the basis of the principle of collective responsibility].]

Article F

[States Parties shall ensure the strengthening of international cooperation in order to eliminate the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the practices of sale, prostitution, pornography and child sex tourism]

Article G

States Parties shall ensure the implementation and strengthening of measures against the practices referred to in the present Protocol, including the protection against cross-border trafficking, and providing special arrangements for the assistance, repatriation and reintegration of child victims, when appropriate.

[Article H

States Parties shall ensure international cooperation to assist children especially from developing countries for their repatriation and reintegration, in particular by providing financial aid.]

Part 2. Texts left from its previous session for consideration by the working group at its next session

CHAPTER VI. ASSISTANCE, REHABILITATION AND COMPENSATION

[1. States Parties shall adopt all feasible measures to ensure adequate assistance, including medical, economic, social and legal assistance to victims of sale of children, child prostitution and child pornography, with the aim of attaining their full physical and psychological recovery and social reintegration.]

[2. States Parties shall adopt social development policies as well as other relevant policies and implement programmes, focused on children and vulnerable groups [to promote an adequate standard of living for the physical, mental, spiritual, moral and social development of the child] that would contribute to preventing the sale of children, child prostitution and child pornography.]

OR

[2. States Parties shall adopt special measures in order to protect children specially vulnerable to sale of children, child prostitution and child pornography.]

3. States Parties shall ensure that child victims of sale, prostitution and pornography have access to adequate procedures to seek compensation [from the offender] for [damage and other] negative consequences of these offences.

OR

3. States Parties shall provide in their legislation child victims of sale, prostitution and pornography with the right to seek compensation for the negative consequences of these offences.

PREAMBLE (FORMER CHAPTER III. IMPLEMENTATION OF PERTINENT INSTRUMENTS)

Proposal submitted by the delegation of the United States of America acting as coordinator

Emphasizing the importance of preventing and eradicating the sale of children, child pornography and child prostitution through effective national legislation and domestic measures, including measures aimed at minimizing access to and dissemination of materials promoting the sale of children, child pornography and child prostitution, through written, visual, or modern telecommunication and electronic media,

Stressing the continuing need for effective implementation by States of relevant international legal instruments relating to the sale of children, child prostitution and child pornography, including the Convention on the Rights of the Child and all other relevant treaties and conventions to which they are party,

Giving due regard to the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the other relevant decisions and recommendations of pertinent international bodies,

Encouraging appropriate activities of, and cooperation with, relevant international and non-governmental organizations, with respect to the sale of children, child pornography and child prostitution, in line with their respective national legislation,

Recalling that in the Convention on the Rights of the Child, States Parties undertook to protect the child from all forms of sexual exploitation and sexual abuse,

Bearing in mind that the majority of the child victims in the sale of children, child prostitution and child pornography are from developing countries,

Believing that the elimination of the consumer market will effectively reduce the sale of children, child prostitution and child pornography,

Recognizing that while poverty or underdevelopment create an environment which may lead to child exploitation, the sale of children, child prostitution and child pornography cannot under any circumstances be justified by reason of such poverty or underdevelopment,

Recognizing the need to address the root causes contributing to the vulnerability of the child to sale of children, child prostitution and child pornography, including poverty and underdevelopment,

Deeply concerned at the widespread and continuing practice of sex tourism to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

Recognizing the trans-border nature of prevailing practices that promote the commercial sexual exploitation of children,

Emphasizing in this regard the importance of establishing effective international cooperation, including bilateral, multilateral and regional arrangements, providing for penalization, prevention, detection, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution and child pornography,

Emphasizing that nothing in this Protocol prejudices the legitimate adoption of children consistent with the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally,

Recognizing that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Proposal submitted by Denmark

Keeping in mind that any person regarding whom proceedings are brought in connection with any of the offences referred to above should be guaranteed fair treatment at all stages of the proceedings (art. 7, para. 3 of the Convention against Torture).

Proposal submitted by the delegation of Australia acting as a coordinator for Chapter V

Encouraging States Parties to work to ensure cooperation between their appropriate officials in tracing and apprehending and prosecuting those responsible for acts involving the sale of children, child prostitution and child pornography, and in investigating such acts, and to work with relevant non-governmental and international organizations to assist with the identification of offenders, bearing in mind the need to protect the privacy of all involved,

Encouraging States Parties also to take all reasonable steps to put in place effective bilateral, multilateral or regional arrangements for cooperation in the prevention, detection, prosecution and punishment of acts of tourism organized with the purpose of facilitating the effecting of a commercial sexual relationship with a child,

Considering that States Parties should strengthen cooperation in providing assistance, rehabilitation and repatriation where this is appropriate to child victims of sale, prostitution and pornography,

Considering also that States Parties should take all feasible measures, through bilateral and multilateral cooperation and on the basis of collective responsibility, to eliminate the sale of children, child prostitution and child pornography,

Encouraging States Parties to promote and strengthen international cooperation in the elimination of poverty, hunger and underdevelopment, all of which create an environment which may lead to the exploitation of children, particularly in developing countries, with a view to contributing to the elimination of sale of children, child prostitution and child pornography.

CHAPTER VII. INFORMATION, EDUCATION AND PARTICIPATION

Proposal submitted by the delegation of the Russian Federation acting as coordinator

States Parties in accordance with international norms for the protection of children promote education, information and public awareness of the effects of the sale of children, child pornography and child prostitution. For these purposes States Parties strengthening measures at international and national levels shall, inter alia:

(a) Launch campaigns, actively involving the media and other participants to sensitize and inform people to the gravity and dangers that flow from the sale of children, child pornography and child prostitution (and avoiding the dissemination of programmes that may be conducive to the encouragement of such exploitation). These campaigns address all those persons who are responsible for taking care of children; parents, educators and all others, such as associations, tourist agencies and tourists, as well as the public. They focus on the dissemination of information on the rights of the child, the condemnation of and the fight against all forms of exploitation of children;

(b) Encourage the inclusion in educational efforts of information on the risks that children may run in regard to the sale of children, pornography, and child prostitution and on how they can defend themselves, taking into account in particular the right of the family to its integrity, the fundamental right of every child to the integrity of his own body and the protection of his identity and his rights as laid down in the Convention;

(c) Promote other programmes aimed at heightening public awareness, and improving the training of those who have functions involving support for and protection of children in the fields of education, health, social welfare and the justice system, in order to enable them to identify the phenomena of the sale of children, child pornography and child prostitution;

(d) Inform the public of relevant measures adopted and the number of prosecutions and sentences imposed in cases involving the sale of children, child pornography and child prostitution. The outcome of the proceedings instituted should be made public, while ensuring the anonymity of the victims, as well as the respect of their rights, in particular their right to privacy;

(e) To make use of the means to ensure respect for social, spiritual and moral values;

(f) Promote greater involvement of the general public in disseminating the notion of protection of the child as an ethical principle common to all cultures and in the implementation of programmes established for such purposes.

Proposal submitted by the delegation of Canada

States Parties shall promote public awareness of the effects of the sale of children, child pornography and child prostitution.

Proposal submitted by the delegation of the Russian Federation

States Parties through education, information and participation of the public at large including children (shall) promote awareness (of the society) of the (harmful) effects of the sale of children, child pornography and child prostitution.

OR

States Parties agree to take or to encourage through their public and private educational health, social and other related services, mass media measures or the promotion of awareness of the harmful effects of the sale of children, child pornography and child prostitution.

OR

States Parties undertake to arrange for appropriate publicity warning the public of the harmful effects of the sale of children, child pornography and child prostitution.

Proposal submitted by the delegation of the Islamic Republic of Iran

Article A

States Parties shall promote awareness at all levels of the grave problems of sale of children, child prostitution and child pornography and to ensure respect for social, spiritual and moral values through education and information at the national and international levels.

Article B

States Parties shall endeavour to involve the media as an active partner to sensitize and inform people of the gravity and dangers that flow from the sale of children, child prostitution and child pornography and agree to take or to encourage mass media measures to prevent dissemination of programmes that may be conductive to the encouragement of such exploitation.

CHAPTER VIII. OTHER MATTERS

Proposal submitted by the Islamic Republic of Iran on the structure of the protocol

The following issues would be placed under chapter I entitled "General provisions":

A. Definitions

As adopted by the working group

B. An independent article

Nothing in this Protocol shall be interpreted in a manner to affect the right of each State to take any appropriate measures aimed at combating sale of children, child prostitution and child pornography.

C. Non-discrimination (as contained in document E/CN.4/1995/95, annex I)

The provisions of a possible optional protocol should be implemented without discrimination of any kind as set forth in article 2 of the Convention on the Rights of the Child.

D. Reservations (as contained in document E/CN.4/1995/95, annex I)

A possible optional protocol should consider the question of reservations.

E. Reporting (as contained in document E/CN.4/1995/95, annex I)

A possible optional protocol should contain a provision relating to the inclusion of information regarding the implementation of the protocol in the regular reports submitted by States who are party to the Optional Protocol to the Committee on the Rights of the Child, pursuant to article 44 of the Convention on the Rights of the Child.

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ORGANIZATION OF THE WORK OF THE SESSION

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Report of the United Nations High Commissioner for Human Rights

Building a partnership for human rights

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MAY 14 1997
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COLLECTION

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Introduction

1. This year is the fiftieth anniversary of the Commission on Human Rights, the first international body charged with the mandate of ensuring universal human rights. This is a fitting time to pay tribute to the members of this organ which throughout its history has seen enormous efforts and great achievements, but also moments of deep despair. Although much still remains to be done, we can see that the accomplishments of the past 50 years have gone far beyond even the optimistic expectations that accompanied the birth of the Commission. Half a century of crucial work for human rights has benefited people all over the world. Let this encourage us in our continuing commitment to assist people suffering under oppression by violators of their human rights or other circumstances affronting their dignity.

2. The international community is also on the eve of important events which will greatly affect the United Nations human rights programme at the dawn of the next century. The fiftieth anniversary of the Universal Declaration of Human Rights and the five-year review of the Vienna Declaration and Programme of Action are now only one year away; 1998 thus presents a unique opportunity for the international community to take stock of the state of human rights promotion and protection throughout the world and to chart a clear course for greater enjoyment of human rights by all people in the decades to come.

3. Today we understand even more clearly than before that human rights is an equal and integral part of the triad of United Nations goals: peace, development and human rights. After his election as the sixth Secretary-General, Mr. Kofi Annan told the General Assembly "All the old problems - particularly peace and security among nations and social justice for their peoples - still confront us. But the old approaches to these problems must be broadened. A new understanding of peace and security must emerge. The world is beginning to recognize the many roots of conflict, the economic base of stability, and the grim truth that intolerance, injustice and oppression - and their consequences - respect no national frontiers." This holistic approach is being stressed at a time when the challenges to the protection of human rights are formidable. Fortunately, a growing consensus favours a stronger role for human rights in contributing to improving the lives of people in the communities where they live and to positive international relations. Let a partnership for human rights emerge worldwide, uniting people, institutions and States for the sake of every human being. Working together, the human rights community will make the United Nations human rights programme a programme of all people everywhere: **strong**, to prevent human rights violations; **reliable**, to protect and defend victims; **interactive**, to be shaped by all the actors concerned; **flexible**, to react to evolving needs; **compelling**, to build a worldwide Partnership for Human Rights.

4. The General Assembly at its fifty-first session adopted by consensus the Medium-Term Plan for the period 1998-2001. The plan, which includes the promotion of human rights as one of the priority areas of work of the organization, clearly identifies the strategic objectives for the United Nations human rights programme into the next century: "to emphasize the importance of human rights on the international and national agendas; to promote international cooperation for human rights; to stimulate and coordinate action across the whole United Nations system; to promote universal

ratification and implementation of international standards and to assist in the development of new norms; to support human rights organs and treaty monitoring bodies; to anticipate potential serious violations and react to violations; to emphasize preventive human rights action and promote the establishment of national human rights infrastructures; to undertake human rights field activities and operations and to provide education, information, advisory services and technical assistance in the field of human rights."

5. Our future work will be based on the firm foundation which has been established since 1945 and which has been significantly enriched in the years after the World Conference on Human Rights. The increase in the number of ratifications of human rights instruments, the number of United Nations human rights field activities, the number of technical cooperation programmes delivered worldwide, the number of newly established national institutions for the promotion and protection of human rights, and the number of monitoring activities reflect the impressive development of the United Nations human rights programme. In this context also, preventive activities, special programmes for the promotion and protection of the rights of women, children, indigenous people, minorities, etc. highlight the progress achieved. Great challenges to human rights clearly remain, but the United Nations human rights programme today is better equipped than ever to address them.

6. Strengthening the system of international human rights instruments should be a key element as we move towards 1998. States which have not yet ratified, acceded or succeeded to the principal human rights instruments should do so without reservations. Existing instruments should be strengthened by expanding the range of activities to monitor the conformity of national laws and practices with international norms freely accepted and subscribed to by sovereign States. Treaty-based bodies should be enabled to fully accomplish their mandates and to live up to the expectations of groups and individuals all over the world who regard them as the international legal authority in the field of human rights.

7. This report reflects the current policy orientation of and guiding elements for the High Commissioner's action. It also presents a brief summary of the High Commissioner's activities since submitting his report to the fifty-first session of the General Assembly (A/51/36).

I. HUMAN RIGHTS: THE COMMON LANGUAGE OF HUMANITY

A. Towards a culture of human rights

8. The fifty-year history of international human rights promotion and protection began with the belief of the drafters of the Charter of the United Nations and the Universal Declaration of Human Rights that each person is endowed with equal individual dignity and rights, and that this value must be protected by a set of fundamental principles. This commitment to a shared vision of the common rights of all people has inspired and challenged the international community during the past decades, and continues to shape the

plans and actions of Governments and international organizations. Guided by this commitment, non-governmental organizations and individuals serve as the eyes and ears of the international community and speak out when human rights standards are not being met. All of these contributions have benefited the lives of countless individuals around the world and must continue in years to come.

9. The record of the Commission on Human Rights and other human rights organs and bodies shows, however, how much remains to be done in order to achieve complete respect for human rights globally. As the international community approaches the fiftieth anniversary of the Universal Declaration of Human Rights, the time has come to take bold steps towards the goal of universal understanding of and commitment to human rights. Today, the international community, which is guided by treaties, declarations and agreements, must also move to a high moral plane where a culture of human rights permeates the minds and hearts of all people. This culture would ultimately result in a profound change in how individuals, communities, States and the whole international community view relationships in all matters. Such a culture would make human rights as much a part of the lives of individuals as are language, customs, the arts, and faith. This new culture would result in human rights being the common set of values which bind all people together.

10. The process of globalization exposes the international community more than ever to human rights challenges, but also serves as a catalyst for developing a human rights culture. Human rights problems frequently cross State frontiers and, therefore, their resolution increasingly requires measures to be taken in the framework of international cooperation. In this sense, people worldwide have become neighbours who should be ready to assist those in need. This phenomenon contributes to the emergence of a human rights culture which is rich because of its multicultural roots and identities.

11. A human rights culture means collective and individual responsibility, now and for generations to come. Everyone bears this responsibility. Governments' share in this respect is critical. As holders of power and as the major actors in international relations, they have the greatest possibilities and the strongest means to promote and protect human rights. The Vienna Declaration and Programme of Action in its first paragraph says: "Human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments."

12. The contemporary world requires Governments to go further than ever before in carrying out their responsibility for human rights. Refraining from interfering with and violating the rights and freedoms of individuals is no longer enough. Governments are expected to actively promote and protect human rights, to prevent ethnic and religious conflicts, to eradicate hunger and extreme poverty, and to promote sustainable development. The root causes of human rights violations cannot be removed without the determined actions of Governments both at the national and international level. Governments can count on the support of the international community, including the United Nations human rights programme in these endeavours.

13. In order for human rights to be woven into the fabric of every community, individuals must not only understand their fundamental rights, but

must also be willing to personally commit themselves, each in his or her own way, to the ongoing work of ensuring the protection of those rights. This personal commitment can obviously take many forms, from voting and participating in the civic life of communities, to speaking publicly on behalf of those whose voices have not been heard. Countless examples from around the world clearly demonstrate the degree to which individuals have been willing to work to ensure protection for human rights. This spirit of dedication and responsibility must be a natural element of communities which value service, civic participation, and education in the principles of democracy and human rights. Such efforts must be renewed continually to ensure that each generation understands and accepts the responsibilities inherent in the life of communities where human rights are enjoyed by all people.

14. Those committed to ensuring human rights for others know very well that this involvement often entails personal risk. Nevertheless, the human rights community was shocked to learn of the recent deaths of five United Nations human rights officers in Rwanda and six colleagues of the International Committee of the Red Cross in Chechnya, all of whom gave their lives in the hope of better lives for others. Their sacrifice should inspire the international community in its efforts to guarantee human rights for all people.

B. Human rights education

15. Human rights education is the basic vehicle of the human rights culture which can flourish only when people are aware of both their rights and their responsibilities as individuals and as members of international, national and local communities. Long-term and vigilant human rights protection cannot be imposed from above; rather, it must come from a sustained domestic demand for human rights from the people. Human rights education is not only an end in itself but also leads to empowerment, and therefore change; in this sense, it constitutes a crucial and enduring contribution to the prevention of human rights abuses and an investment in achieving a just and humane society.

16. The United Nations Decade for Human Rights Education (1995-2004) is an effective framework for wide partnerships to cooperate in building a universal culture of human rights. Two years of the Decade have passed; it is therefore an appropriate time for the international community to reflect on the Plan of Action in the light of its practical implementation, in order to identify its primary objectives more precisely. A basis for this reflection is provided in the report of the High Commissioner on the implementation of the Plan of Action (E/CN.4/1997/46). Particularly encouraging are numerous initiatives at the national level, which are one of the main focuses of the Plan of Action. Broad alliances among existing and new partners for human rights education are being developed in a number of countries. Not only national projects are important; but literally each initiative - in neighbourhoods and in vast metropolitan areas, in primary schools and at the university level, among trade unions and in artistic circles - makes a contribution. Education is a movement, not merely a structure of instruction. During a recent meeting of human rights educators, convened by the High Commissioner in Geneva from 27 to 30 January 1997, an approach to human rights education based on a variety of strategies for furthering human rights education at the national and international levels dominated the debate. The results of this meeting will

be of great assistance in future work. The High Commissioner will continue to support activities in the field of human rights education and looks forward to stronger partnerships at all levels in this regard.

II. HUMAN RIGHTS: THE SIGNPOST TO SUSTAINABLE DEVELOPMENT

A. Democracy, development and human rights

17. The World Conference on Human Rights (1993) recognized the functional link between democracy, development and human rights. Without democratic structures in place through which people can actively participate in the civic life of their communities, and without economically sound development strategies to provide people with the material requirements of life, human rights cannot be fully guaranteed. Equally important, development is more than economic growth. The criteria for sustainable development should include better protection of all human rights: civil, cultural, economic, political and social, as well as protection of the most vulnerable and impoverished. The efforts of the United Nations human rights programme today are testimony to the belief that individuals, when provided with the knowledge of human rights and the tools of democracy and development, can create better communities for themselves. The right to development has taken its proper place as one of the necessary components of a democratic society which respects all human rights and strives for sustainable development.

B. The right to development

18. The right to development - a universal and inalienable human right of every individual, as reaffirmed in the Vienna Declaration and Programme of Action - should be exercised in a manner that will allow the developmental needs of present and future generations to be equitably met. The basic link between democracy, development and human rights requires that all human rights be viewed as universal, interdependent and equally important. The concept of the right to development allows the ties between all rights to be recognized and enables them to be integrated into a system of rights as perceived from the perspective of the individual's participation in sustainable development. Consequently, the right to development includes the place of individuals in civil society, their participation in running community affairs, their personal security and their capacity to determine and realize their potential. The holistic approach to human rights requires, however, that particular attention be paid to the areas of human rights which are currently in a weaker position: from a global perspective, economic, social and cultural rights require further attention in determining their contents and strengthening the means and methods of their realization.

19. The right to development is an increasingly important vehicle for combating the social, economic and cultural exclusion which is felt by many people today in communities around the world. The opportunity to work and have enough to eat is as critical to human dignity and democracy as is the opportunity to vote and to speak freely. As in the case of all other human rights, the implementation of the right to development requires, first and foremost, to be translated to the domestic level. The Agenda for Development, and the Copenhagen Declaration on Social Development clearly recognized each

State's primary responsibility for its own development. The World Conference on Human Rights underscored that while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights. Whether expressed in terms of State responsibility or of international human rights, development requires competent governmental leadership, coherent national policy, and strong popular commitment. It is a means for ensuring democracy at the national and international levels, and for improving incomes, health and social services, and the general living conditions of all people. However, sustainable development also requires appropriate international arrangements on the basis of which cooperation and assistance can be offered to countries and societies which need it. The World Social Summit in Copenhagen, the Food Summit in Rome, and Habitat II in Istanbul all stressed that the international community cannot limit its involvement to humanitarian aid. Creating the conditions for sustainable development worldwide is of paramount importance in ensuring that all human rights, including the right to development, will be duly implemented. To assist Governments in their efforts, the High Commissioner initiated, in cooperation with regional economic commissions, seminars on the right to development with the representatives of national planning institutions and United Nations agencies and programmes.

20. International cooperation is indispensable for the implementation of the right to development. United Nations agencies and programmes which are mandated in the areas of development and human rights can play a crucial role in this regard. It was vital that the international conferences related to social issues were open to contributions by the United Nations human rights programme and adopted provisions relevant for strengthening human rights in their respective areas of concern. The High Commissioner has established close contacts with UNDP, the regional economic commissions, the World Bank, UNCTAD and other agencies, all of which contribute to good governance, rule of law, and protection of human resources, areas in which the United Nations human rights programme targets its activities. This is a good basis for working closely together. Within the High Commissioner/Centre for Human Rights a special "Research and Right to Development Branch" addresses this area.

III. HUMAN RIGHTS: EQUALITY AND NON-DISCRIMINATION

21. Ensuring equal access to human rights and eliminating all forms of discrimination remain great challenges to contemporary societies. Racial discrimination, ethnic conflicts and anti-Semitism as well as hostility against migrant workers, immigrants and foreigners in general are painful examples of the barriers to the protection of rights and freedoms. A spirit of solidarity should override the inclination to egoism and become the basis for living together in harmony. A central priority of the United Nations human rights programme is removing the root causes of discrimination and combating its manifestations. The Organization's efforts require support worldwide, at the international, national and grass-roots levels.

22. The international community should support anti-discriminatory patterns of behaviour and focus on the promotion and protection of the rights of specific target groups such as women, children, minorities, indigenous people and the disabled. Legal standards established by the United Nations prohibit

discrimination and provide a basis for the affirmative support of those who are underprivileged or vulnerable. The Third Decade to Combat Racism and Racial Discrimination, the International Decade for the World's Indigenous People, the United Nations Decade for Human Rights Education, the programmes for the protection of minorities, special activities for women and children, and the technical cooperation programme all allow for individual and joint actions at every level. The international community should make every effort to combat discrimination, which violates the equal dignity of all people and which leads to serious conflicts resulting in massive violations of human rights. At the threshold of a new century, it must be ensured that future generations will live in conditions where each human being receives equal respect, wherever he or she lives or whatever his or her origins.

23. It is encouraging that United Nations agencies and programmes have increasingly entered into joint activities aimed at combating discrimination. Important developments in this regard took place in 1996 (see A/51/36). The High Commissioner recently initiated inter-agency consultations on the protection of minorities. The third meeting on this important issue will be held before the next session of the Working Group on Minorities. Various dimensions of discrimination, especially against racial and ethnic groups, women and children, have also been the focus of attention of the human rights treaty-based bodies and special mechanisms of the Commission. Relevant information is available in the respective reports to the General Assembly and to the present session of the Commission on Human Rights.

IV. HUMAN RIGHTS: THE FREEDOM FROM VIOLATIONS

24. Making human rights a reality is a high legal and moral imperative to which the entire international community has committed itself. It implies creating conditions for the well-being of people, peaceful relations between States, and progress in all areas of life for individuals and communities. Philosophers and moralists, lawyers and politicians, know very well how important human rights are for civil community life and good governance. Economists know the costs of resolving emergency situations which could have been avoided if human rights had been effectively promoted and respected. Finally, and most important, people all over the world have testified to their firm belief in human rights as the set of standards protecting values that are indispensable for a better world. International concern for human rights, wherever they are in danger, is therefore not only legally justified, but also constitutes a necessary component of future-oriented international and national policies. The experience of countries which have chosen the challenging road to sustainable development, democracy and human rights, and which are already beginning to enjoy the fruits of this decision in the form of interrelated economic progress, political consolidation and social stability, proves that human rights are not only noble ideas. They are also practical tools to shape the lives of people everywhere.

25. The General Assembly and the Commission on Human Rights, treaty bodies, country and thematic special rapporteurs and working groups all agree that the implementation of human rights should be at the centre of international attention. They continue to express their concern about obstacles to the enjoyment of all human rights by everyone, about serious human rights violations and about difficult human rights situations in a relatively large

number of countries. Extreme poverty and problems related to sustainable development, international debt, impunity, racism and xenophobia, discrimination against women, ethnic and religious intolerance, mass exoduses and refugee flows, armed conflicts and terrorism, and lack of the rule of law are highlighted by the resolutions of United Nations organs as being major obstacles to the full realization of human rights. The international community has repeatedly been alerted to extrajudicial, summary or arbitrary executions, torture and enforced disappearances, arbitrary detention, violence against women, children and vulnerable groups, the problem of internally displaced persons, etc.

26. All those who deal with the implementation of human rights know that no country can be absolutely satisfied with its human rights record. The promotion and protection of human rights must therefore be perceived as a continuing effort, both at the national and the international level. It is particularly important that the General Assembly and the Commission on Human Rights in their resolutions, treaty bodies in their views, special mechanisms in their recommendations, and finally the general public in their attitudes and actions, attach particular attention to the following situations: grave and massive human rights violations; refusal by Governments to lend their full cooperation to the United Nations human rights machinery, in particular to the Commission or its mechanisms; and intimidation and reprisals against private individuals and groups who seek to cooperate with the United Nations human rights machinery. In his dialogues with Governments and contacts with civil society, the High Commissioner for Human Rights also attaches prime importance to these issues.

27. It is vital that the recommendations adopted by the competent United Nations organs and bodies be implemented vigorously and without delay. In many cases the response of Governments indicates their willingness to react constructively to the voice of the international community. The High Commissioner continues to contribute to this process, inter alia, through dialogues with Governments and through the Programme of Technical Cooperation. He has also taken steps to improve the coordination of efforts between various parts of the human rights machinery to avoid unnecessary duplication. For instance, channels of information on planned and ongoing initiatives among treaty bodies, special mechanisms of the Commission and the High Commissioner allow for more effective and less expensive operation. This process is supported by the new horizontal concept information flow within the High Commissioner/Centre for Human Rights.

V. THE HUMAN RIGHTS PROGRAMME: RESPONDING TO NEEDS

A. Preventive and responsive action - Field work

28. The international community must act with energy to eradicate gross violations of human rights and humanitarian crises, which are major human tragedies and result in millions of refugees and internally displaced persons, starving children and adults, lack of medical care, and hopeless futures for thousands lost and sometimes forgotten in even the most developed countries. The international community does not want to be a silent or passive witness and strongly advocates measures preventing human rights violations. Through training, assistance in national programmes and monitoring, much can be

achieved. Strengthening preventive human rights activities is wise not only in human terms but also in economic terms. Those responsible for the conduct of international affairs should especially ensure that the efforts of the international community lead to determined and timely action.

29. A human rights field presence, established with the consent of the authorities of the States concerned, is one of the major innovations introduced under the mandate of the High Commissioner for Human Rights in the implementation of the United Nations human rights programme. Experience has proved that the effective implementation of human rights is greatly facilitated by activities in situ. In some countries, the human rights presence has been established as an autonomous project, in others it is part of a broader United Nations involvement as in the case of the United Nations human rights programme for Abkhazia, Georgia. Some operations integrate assistance and monitoring functions, whereas others are mandated exclusively in the area of technical assistance. The flexibility of the human rights field presence is one of its strongest assets. In 1992 there were no human rights field activities; the High Commissioner/Centre for Human Rights now has offices in 11 countries in all regions. Recently, human rights field offices have been opened in Abkhazia (Georgia), Colombia, Gaza (Palestine) and Zaire.

30. The country involvement of the United Nations system has changed not only quantitatively but also qualitatively. In the case of non-international conflicts, not only regular armies, but also militias and armed civilians with little discipline and ill-defined chains of command are involved. Humanitarian emergencies involving waves of refugees and internally displaced persons are commonplace. The collapse of State institutions, including the police and judiciary, and a breakdown of law and order commonly follow such situations. Acting authorities are not in a position to meet the emerging needs. All of these situations create new challenges for the United Nations, both in the field and at Headquarters. An effective response must include the promotion of national reconciliation, confidence-building measures, restoration of human rights and the re-establishment of effective government. This is an area for close cooperation among relevant United Nations agencies and programmes which should utilize the potential of the United Nations human rights and humanitarian programmes. With its encouraging experience in the field, the United Nations human rights programme is ready to develop such cooperation further, both at the Headquarters level and on the ground. The considerable expertise of the United Nations human rights programme should be considered as an important asset in the country projects carried out by the United Nations.

B. Technical cooperation

31. The Programme of Technical Cooperation, through which the High Commissioner for Human Rights provides advisory services and technical and financial assistance to countries at the request of Governments, is a fundamental part of the United Nations human rights programme. It offers constitutional and legislative assistance; human rights support to parliaments; human rights training; assistance in strengthening the

administration of justice (including human rights training for the legal profession, police and prison officials); assistance for the establishment of independent, effective national human rights institutions; assistance for the conduct of free and fair elections; and support to non-governmental organizations and civil society. 1/

32. On the basis of a comprehensive review of the activities of the Programme, the High Commissioner has developed the following policy orientation: the Programme focuses on countries in transition to democracy and less developed countries; priority consideration is given to programmes addressing mandates emanating from the Vienna Declaration and Plan of Action and from resolutions of United Nations organs, such as strengthening national capacities for the promotion and protection of human rights, the promotion of economic, social and cultural rights, developing national plans of action, and building national institutions.

33. In order to carry out its growing tasks, the Programme of Technical Cooperation will be strengthened still further. Nineteen ninety-six brought improvements in the management of the programme, including training of staff and dialogue with all programme partners. Important efforts have been made in the areas of economic, social and cultural rights and the right to development and in integrating a gender perspective into all activities. Further, the integration of human rights into the full range of United Nations technical cooperation activities offers more possibilities of ensuring a climate in which human rights can be respected and protected.

34. Funding for the Programme of Technical Cooperation is provided under the regular budget of the United Nations and by the Voluntary Fund for Technical Cooperation in the Field of Human Rights. The Fund has to date received more than US$ 18 million in pledges and contributions. Steps have been taken to ensure efficient management of the resources of the Voluntary Fund. To meet the rapidly evolving tasks of the Programme, a new approach to its financing is required which, in the view of the High Commissioner, must be based on increased funds from the regular budget, expanded partnerships with United Nations agencies and programmes, including UNDP and the World Bank, NGOs and academic institutions, and on a greater contribution by Governments interested in receiving technical assistance. Specific projects, which are increasingly funded or co-funded by other agencies and programmes of the United Nations system, reflect this approach.

C. National human rights institutions

35. The role of independent national institutions in promoting and protecting human rights is now recognized as extremely important for ensuring the implementation of human rights at the national level. Such institutions play the important role of supplementing, and if necessary providing advice to correct the actions of State organs. They also often assist the most vulnerable and disadvantaged individuals who may not have access to courts or other traditional means of protection. The World Conference on Human Rights emphasized the importance of creating and strengthening national institutions. Close cooperation with United Nations agencies and programmes such as UNDP and with a number of multilateral organizations has been important in advancing these efforts.

36. The High Commissioner has focused specific attention on strengthening existing national institutions and to creating new ones. Projects for this purpose have recently been conducted or initiated in a number of countries, including: Bangladesh, Latvia, Malawi, Mongolia, Nepal, Papua New Guinea, the Republic of Moldova, South Africa and Uganda. Work aimed at strengthening existing national institutions has also been conducted in India, Indonesia and the Philippines. In addition, preliminary advice concerning appropriate legislation has been provided to several countries, including Burundi, Sri Lanka and Thailand.

VI. THE HUMAN RIGHTS PROGRAMME: EXPANDED PARTNERSHIPS

37. Human rights, as the moral foundation of international relations, must permeate all activities of the United Nations. The need for cooperation and coordination of the related efforts was forcefully stressed by the World Conference in 1993. Today, activities of the humanitarian and development agencies, within their respective mandates, clearly contribute to the promotion of human rights. For its part, the United Nations human rights programme contributes to the prevention of humanitarian disasters, to recovery in their aftermath, and to economic development through strengthening the internal stability of countries based on respect for human rights and promotion of the rule of law and good governance. The complementarity of United Nations programmes is becoming a reality. This perspective was adopted in the Medium-Term Plan (1998-2001) for human rights and provided the framework for the restructuring of the High Commissioner/Centre for Human Rights. The United Nations human rights programme is part of the United Nations programme and requires the continuing support of other United Nations agencies and programmes. Cooperation is also essential with regard to other partners: Governments, international organizations, non-governmental organizations, the academic community and civil society in general. The new century should be marked by a worldwide Partnership for Human Rights. The United Nations human rights programme will continue to contribute to that end, and to strive to expand the human rights constituency.

38. Expanded partnerships, based on the full respect for the mandates and responsibilities of each partner, open new horizons for the United Nations human rights programme. Today's expectations result from recent positive experience. Cooperation with the Organization for Security and Cooperation in Europe (OSCE) and UNDP in establishing national human rights institutions in Latvia and Mongolia, a stand-by agreement with the Norwegian Resource Bank for Democracy and Human Rights (NORDEM) concerning support for field activities, cooperation with the International Commission of Jurists in establishing the field office in Colombia, support by the European Union for the programmes in Burundi, Colombia and Rwanda, support for the African Commission on Human and Peoples' Rights, Memoranda of Understanding with UNESCO, the United Nations Volunteer programme, and with the International Human Rights Institute in Strasbourg and the Andean Commission of Jurists are examples of extended partnerships.

39. Particular attention is paid by the High Commissioner to cooperation with civil society, and especially with the non-governmental community - one of the pillars of the United Nations human rights programme. Close consultations by the High Commissioner with NGOs in programming human rights

activities, country visits, meetings of the United Nations human rights organs, and reaction to human rights violations are now established practice. In the area of promotion of human rights, including human rights education and human rights institution-building, NGOs are crucial partners. Regular discussions are held with NGOs in all field offices. NGOs also play an important role by providing information to the United Nations human rights machinery. The partnership between the United Nations human rights programme and NGOs will be further promoted and made more effective, including through participation in the implementation of technical cooperation projects and preparations for the fiftieth anniversary of the Universal Declaration of Human Rights and the five-year review of the Vienna Declaration and Programme of Action.

40. A proper legal framework for protection should be established, to facilitate the very important work in the area of human rights of individuals, groups and organs of society. In this context, the High Commissioner, referring also to the calls of the General Assembly and the Commission on Human Rights, appeals to the Working Group of the Commission on Human Rights to complete as soon as possible the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms. This would be an appropriate contribution to the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights.

VII. THE HUMAN RIGHTS PROGRAMME: CAPABILITIES AND CHALLENGES

A. Human rights machinery

41. The machinery of organs and procedures in the field of human rights which the international community has created since 1945 requires adaptation to evolving needs. The World Conference recognized this necessity, in particular with a view to enhancing coordination, efficiency and effectiveness of action, but also by calling for effective measures to improve specific mechanisms established to guarantee and monitor the implementation of human rights standards. The General Assembly, the Commission on Human Rights and other human rights organs and bodies have taken steps to follow the recommendations of the World Conference. In addition to the creation of the post of High Commissioner for Human Rights, relevant changes have been introduced in the work of treaty-based bodies and special mechanisms of the Commission. The annual meetings of the chairpersons of the treaty bodies and of the holders of the special mandates established by the Commission on Human Rights dedicate the majority of their time to considering how to improve the work of the respective organs and procedures. The Commission itself has launched the process of change. However, the response to the call for reform requires further efforts. Now, when the entire United Nations system is taking up the task of adapting its programmes and structures to the challenges of the next century, when the United Nations human rights programme is approaching the great events of the year 1998, the Medium-Term Plan (1998-2001) and the restructured High Commissioner/Centre for Human Rights provide a basis for the reform of the human rights machinery.

42. Reform should aim at making the human rights machinery more effective and cost efficient in its promotion and protection activities; more responsive to evolving needs; able to act swiftly and react appropriately to human rights situations; and more transparent and clear to the outside world. To that end, the High Commissioner will continue to contribute through a better system of information, reviews and studies, through providing a framework for coordination of action, and through a more supportive secretariat. However, reform also requires decisions to be taken by Governments, especially with regard to human rights treaty bodies and the Commission on Human Rights and its mechanisms. The High Commissioner looks forward to cooperating in this regard with Governments and with the human rights organs and bodies. The High Commissioner/Centre for Human Rights is ready to provide organizational support for an examination by the international community of basic questions, for example: Which particular phenomena in the field of human rights require the relevant protection mechanisms to be strengthened or reformed: human rights emergency situations, or protection of specific rights or specific vulnerable groups? What should be done to make the machinery more effective and at the same time to reduce the burden on Governments caused by various human rights procedures? How can the human rights procedures and mechanism be made more accessible to civil society, to individuals? How should the problem of human and financial resources in the area of human rights be addressed? Such questions should be addressed to arrive at concrete, pragmatic proposals.

43. It is to be noted that the impact of treaty-based bodies on national legislation and practice is continually growing. Jurisprudence of the Human Rights Committee, the Committee against Torture and the Committee on the Elimination of Racial Discrimination is quoted in courts the world over and studied in universities and other institutions. The report of the Special Rapporteur of the Human Rights Committee on follow-up of views shows that many States have complied with the Committee's views by amending legislation, releasing prisoners, and paying compensation to victims. The Programme of Technical Cooperation assists States in implementing the views of the treaty bodies.

44. To enhance the implementation of the Convention on the Rights of the Child, a special Plan of Action was prepared by the High Commissioner and within that framework States have contributed funds to enable the High Commissioner/Centre for Human Rights to hire in 1997 five substantive staff members to carry out integrated activities of research, review of legislation and practice, analysis of particular State situations, liaison with special rapporteurs, assistance in the building of infrastructures and other advisory services and technical assistance. The Plan of Action may pave the way for similar plans with regard to other treaty monitoring mechanisms. The Committee on Economic, Social and Cultural Rights, in December 1996, mandated its Chairperson to draw up a Programme of Action encompassing the full range of measures that would be necessary to ensure that adequate attention is given to promote respect for the International Covenant on Economic, Social and Cultural Rights.

45. The thematic mechanisms continue to play an important role in giving effect to the commitment of the international community to reduce the number and gravity of human rights violations, and ultimately to eliminate them completely. Special rapporteurs and representatives, or working groups,

investigate the occurrence of phenomena as diversified as torture, extrajudicial executions, religious intolerance, violence against women, mercenaries, the dumping of toxic waste, freedom of opinion and expression, etc. There are now 18 thematic mechanisms: 13 established by the Commission on Human Rights and 5 by the Secretary-General. 2/ The country rapporteurs and representatives of the Secretary-General have been mandated to follow human rights developments in 16 countries.

46. Annual meetings of the chairpersons of the human rights treaty-based bodies and of the special rapporteurs/representatives/experts and chairmen of working groups of the Commission on Human Rights, convened by the High Commissioner for Human Rights, have become important coordinating forums. The meetings promote joint urgent actions, field missions, and meetings and consultations in respect of human rights situations of a given region or subregion. The meetings in 1996 concentrated, inter alia, on the follow-up to the views of the treaty-based bodies and the recommendations of rapporteurs and working groups. The High Commissioner has been requested to carry out a study on the conditions under which he could facilitate the implementation of those recommendations. He also assists the Commission, its mechanisms and other relevant parts of the United Nations human rights machinery, as well as Governments, in establishing and developing mutual working contacts. In his dialogue with Governments, the High Commissioner takes up matters which have been the subject of the recommendations adopted by the Commission and its mechanisms. Other proposed activities such as institutionalizing the practice of systematic follow-up visits by thematic rapporteurs or groups to countries to help Governments overcome any difficulties they may encounter in the implementation of the recommendations made after initial visits are hampered by the existing financial constraints.

B. High Commissioner/Centre for Human Rights

47. The Medium-Term Plan for the period 1998-2001 in the field of human rights is based on the Vienna Declaration and Programme of Action, including the principles that democracy, development and respect for human rights are interdependent and mutually reinforcing and that all human rights are universal, indivisible and interrelated. The plan will be implemented in the framework of three subprogrammes: (a) the right to development, research and analysis; (b) supporting human rights bodies and organs; (c) advisory services, technical cooperation, and support to human rights fact-finding procedures.

48. One of the key targets of the restructuring of the High Commissioner/Centre for Human Rights has been the better management of information on human rights. On 10 December 1996, Human Rights Day, the High Commissioner launched the United Nations Human Rights Web Site (http://www.unhchr.ch) on the Internet to meet the need for timely and worldwide dissemination of information on human rights. The Web Site provides the international community with easy access to human rights conventions and declarations, relevant documents and resolutions adopted by the United Nations organs and bodies and comprehensive information on activities of the United Nations dealing with human rights. It will be

continuously updated to meet the needs of the international community. The French and Spanish versions will be launched as soon as the English version of the Web Site is completed. A large number of positive and encouraging comments on the Web Site have been received.

49. In this framework, an integrated human rights information system, which requires a basic change in the existing procedure of human rights information management, is being established. Timely processing of human rights information, smooth flow of information for decision-making and better communication and information-sharing within the Secretariat are only a few of the essential needs which should be met. The new system requires an extensive application of information technology, which enables computer networking for communication, designing, building, updating and sharing human rights databases, and electronic processing and retrieval of documents.

50. The system-wide financial cuts in 1996 have reduced the resources of the United Nations human rights programme provided by the regular budget. Serious efforts have been made to minimize their negative impact on the capacity for action. However, the ever-growing demand on the United Nations human rights programme to engage in such areas as confidence-building measures, technical cooperation, education, monitoring, etc. makes it indispensable to establish an adequate and reliable mix of regular budget resources and voluntary contributions from Governments and private entities. The High Commissioner consistently appeals to Member States and others to contribute to his endeavours. The fund for human rights field activities, which is a component of the voluntary fund for the support of the activities of the HC/CHR, has met with great interest and support by Governments. Several countries, including developing ones, have already made contributions.

51. The new structure of the High Commissioner/Centre for Human Rights provides a functional basis for meeting current and future needs. Emphasis on accountability, teamwork and responsiveness to ever-increasing demands, new methodologies of work, including the linkage between units and a more effective information network, are already bringing visible results which have been noted by the Permanent Missions in Geneva and New York, by agencies and programmes, by treaty-based bodies and special procedures, and by NGOs and other partners.

VIII. 1998 - HUMAN RIGHTS YEAR

52. The fiftieth anniversary of the Universal Declaration of Human Rights - a common standard of achievement for all people in all nations - is an ideal opportunity for an in-depth reflection on human rights and their future. The World Conference on Human Rights provided a means for evaluating the progress made and difficulties faced in implementing human rights by linking the fiftieth anniversary with the five-year review of the Vienna Declaration and Programme of Action. Thus, 1998 should offer the opportunity to: (a) strengthen the promotion and protection of human rights worldwide; (b) review and assess the progress that has been made in the field of human rights since the adoption of the Universal Declaration; (c) review the progress made in the implementation of the Vienna Declaration and Programme of Action; and (d) envisage ways and means to further develop the United Nations human rights programme to meet current and future challenges.

53. Governments, United Nations agencies and programmes, international organizations, academic institutions and non-governmental organizations should give impetus to a worldwide movement to make the commemoration of the Universal Declaration a framework for a renewed commitment to human rights, to people who suffer under oppression, and to future generations. In order for people to participate fully in the commemoration of the anniversary, programmes and activities should be planned in local communities with the cooperation of NGOs, schools, businesses and all other interested partners. This global movement will be evidence that human rights reflect not only hopes and aspirations but also essential interests and legitimate demands of all people on all continents. The international seminar "The Universal Declaration of Human Rights at the dawn of the XXI century: from acceptance to implementation", which was organized by the Governments of Poland, Germany and South Africa in Warsaw on 30 and 31 January 1997, was the first international event in the context of the forthcoming anniversary.

54. The landmark year of 1998 provides a fitting time for Governments to envisage steps which could be taken to advance the cause of human rights in all countries, including, as appropriate, ratifying human rights treaties, holding parliamentary debates aimed at the development of human rights legislation, strengthening national human rights capacities, and developing human rights education. The creation of national plans of action for human rights could provide a structure for various programmes and activities, and in this way substantially contribute to the commemoration of the fiftieth anniversary of the Universal Declaration at the country level. To that end, Governments may wish to establish national committees for the commemoration of the Universal Declaration.

55. In 1996, the Commission on Human Rights and the General Assembly began preparations for the anniversary and clearly indicated its importance. Their resolutions (1996/42 and 51/88, respectively) request the High Commissioner to coordinate these endeavours. In his report to the fifty-first session of the General Assembly, the High Commissioner presented the outline for the relevant human rights activities in 1998. In 1996, the High Commissioner/Centre for Human Rights initiated United Nations inter-agency consultations which will provide a continuing forum throughout 1997 and 1998. On 25 October 1996, the High Commissioner addressed the United Nations Administrative Committee on Coordination to present the concept of human rights events in 1998. The ACC will discuss the progress made in the preparations at its April meeting. The High Commissioner's meeting with the NGO community on 13 December 1996 launched consultations concerning planning for the fiftieth anniversary with civil society. The plan for specific activities which involve not only the High Commissioner/Centre for Human Rights but also cooperative activities with other United Nations agencies and programmes has been elaborated. The High Commissioner has also sent letters to the heads of Government, United Nations agencies and programmes, international organizations, non-governmental organizations and academic institutions with an invitation to cooperate closely in the preparations for 1998. The new United Nations Human

Rights Web Site, through its segment "50th Anniversary of the Universal Declaration", provides a practical tool for communication and coordination between all partners involved in the preparations. In 1997, the High Commissioner intends to continue sectoral consultations with all partners to discuss preparations for the anniversary.

56. Review of the progress in the implementation of the Vienna Declaration and Programme of Action during the first five years since its adoption should include a thorough analysis of the achievements attained and the obstacles remaining to the full realization of the recommendations adopted at Vienna. A frank and open debate will be of paramount importance for future efforts aimed at the promotion and protection of human rights. It is useful to identify well in advance what role the Commission on Human Rights, the Economic and Social Council and the General Assembly should play in reviewing the implementation of the Vienna Declaration and Programme of Action. Governments, United Nations agencies and programmes, international organizations and non-governmental organizations are encouraged to launch preparations for the presentation of their reports and views on the progress made in the implementation of the Vienna Declaration and Programme of Action, in accordance with section II, paragraph 100, of this document. 3/

57. The Commission on Human Rights may wish to undertake in 1998 an initial evaluation of the implementation of the Vienna Declaration and Programme of Action. The results of this debate could provide input to the work of the Economic and Social Council and the General Assembly. This exchange would be enhanced considerably if held during a high-level segment of the Commission. The Council, in its decision 1996/283, endorsed the recommendation of the Commission on Human Rights (1996/83) to devote the coordination segment of its session in 1998 to the coordinated follow-up to and implementation of the Vienna Declaration and Programme of Action as part of the overall coordinated follow-up to major United Nations conferences. This would be an excellent occasion to analyse the implementation of the Vienna Declaration and Programme of Action throughout the United Nations system.

58. The General Assembly may wish to carry out in 1998 a comprehensive analysis of the progress achieved in the implementation of the Vienna Declaration and Programme of Action and to consider recommendations made by the Commission on Human Rights and the Economic and Social Council. Thus, the report of the Secretary-General to the General Assembly on the implementation of the Vienna Declaration and Programme of Action will highlight the activities of all actors involved, including international and regional organizations which are not parts of the United Nations system and civil society.

59. A multifaceted and timely preparation of the celebration of the fiftieth anniversary of the Universal Declaration and of the review of the implementation of the Vienna Declaration and Programme of Action will be an important contribution to the promotion and protection of human rights. A spirit of solidarity and cooperation should guide the international community in this endeavour.

Notes

1/ A full account of the programme and its various components can be found in the relevant report of the Secretary-General to the Commission on Human Rights (E/CN.4/1997/86).

2/ See also the "Note by the Secretariat on human rights and thematic procedures" (E/CN.4/1997/38), which contains the conclusions and recommendations of the various experts entrusted with thematic mechanisms.

3/ See also General Assembly resolution 51/118, "Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action".

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ORGANIZATION OF THE WORK OF THE SESSION

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Report of the United Nations High Commissioner
for Human Rights

Building a partnership for human rights

PROPERTY OF

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Figure 1

International Covenant on Economic, Social and Cultural Rights: Status as at 31 January 1997

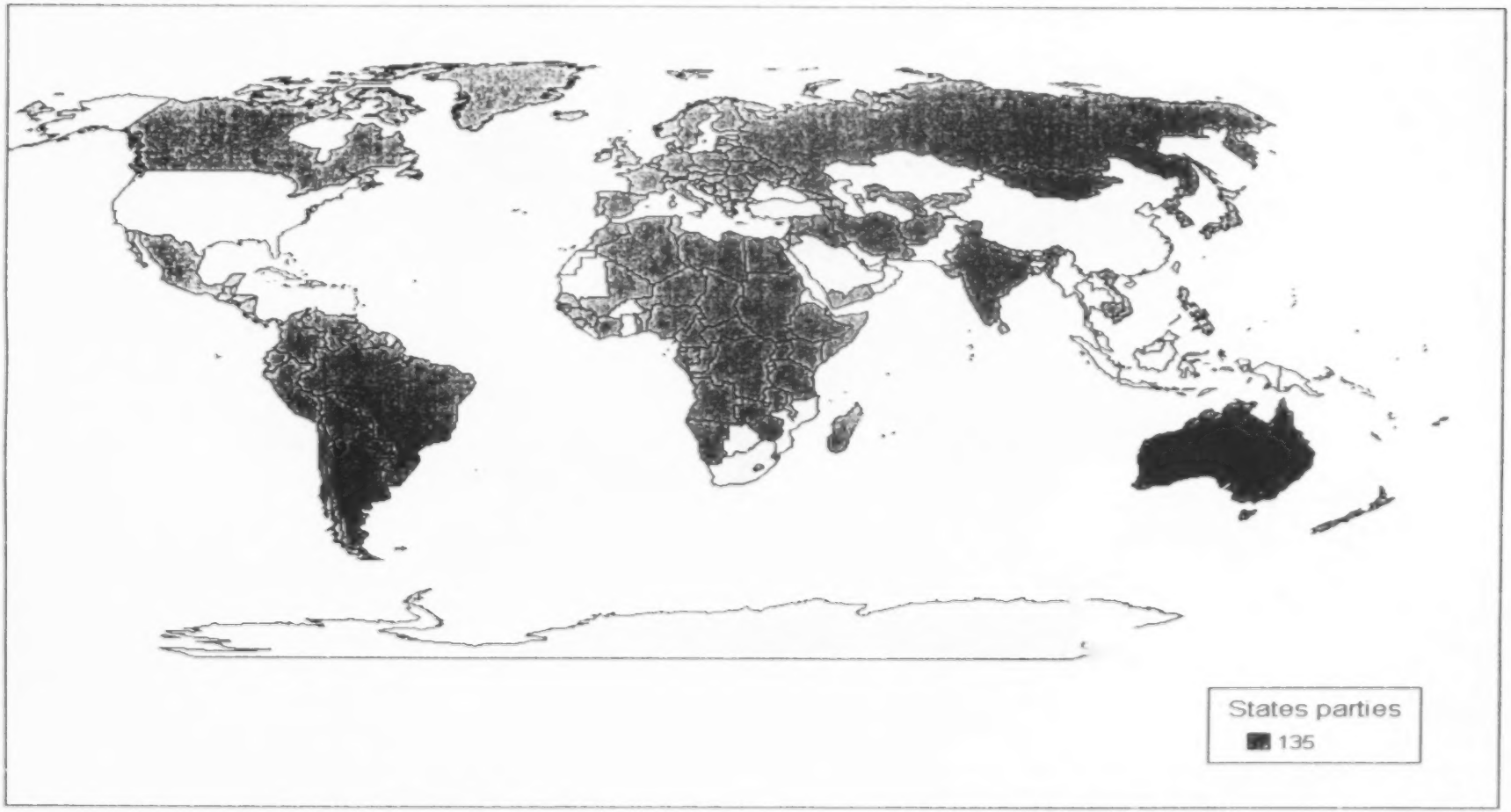

Figure 2

International Covenant on Civil and Political Rights: Status as at 31 January 1997

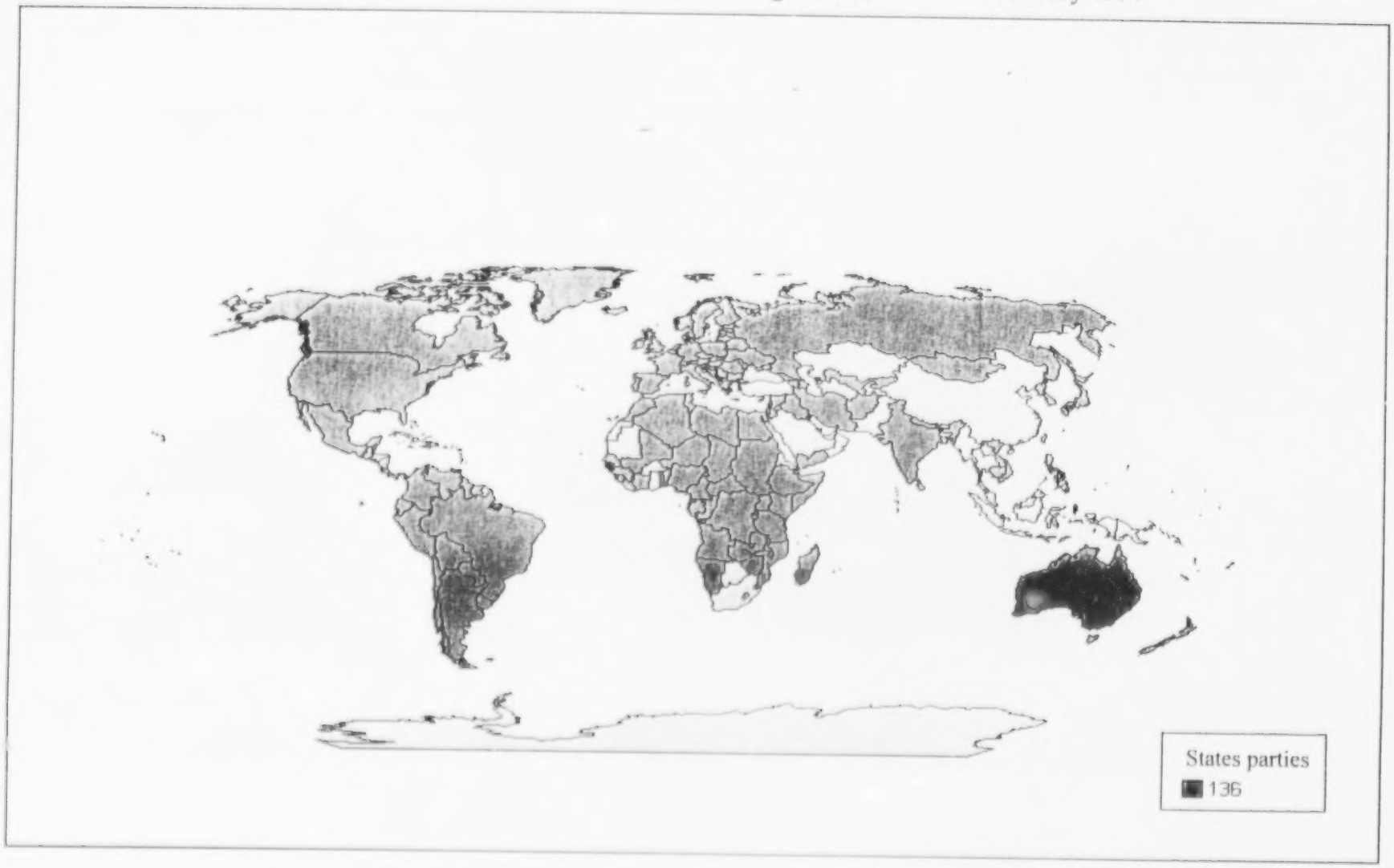

Figure 3

Optional Protocol to the International Covenant on Civil and Political Rights

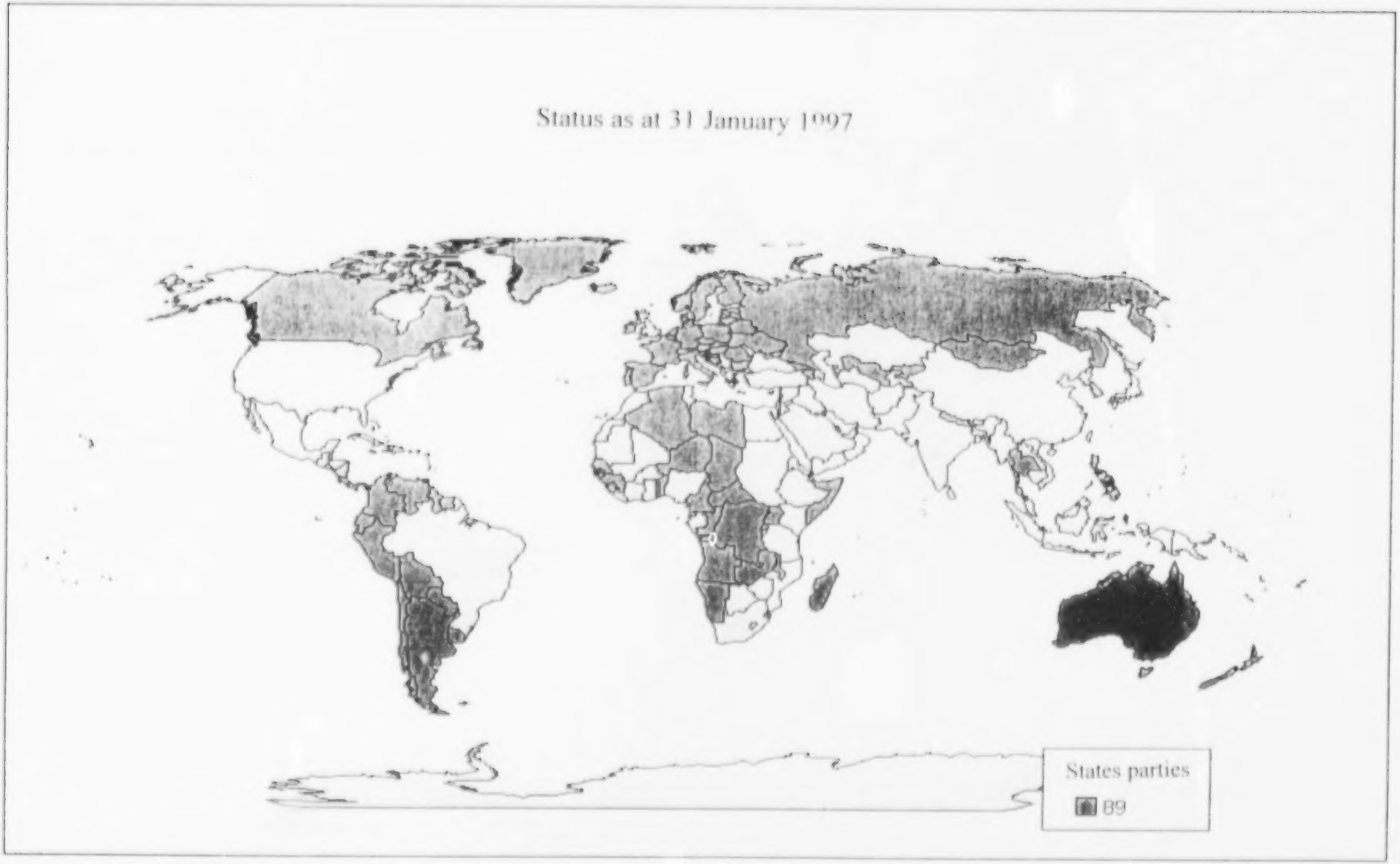

Figure 4

Second Optional Protocol to the International Covenant on Civil and Political Rights

Figure 5

International Convention on the Elimination of All Forms of Racial Discrimination: Status as at 31 January 1997

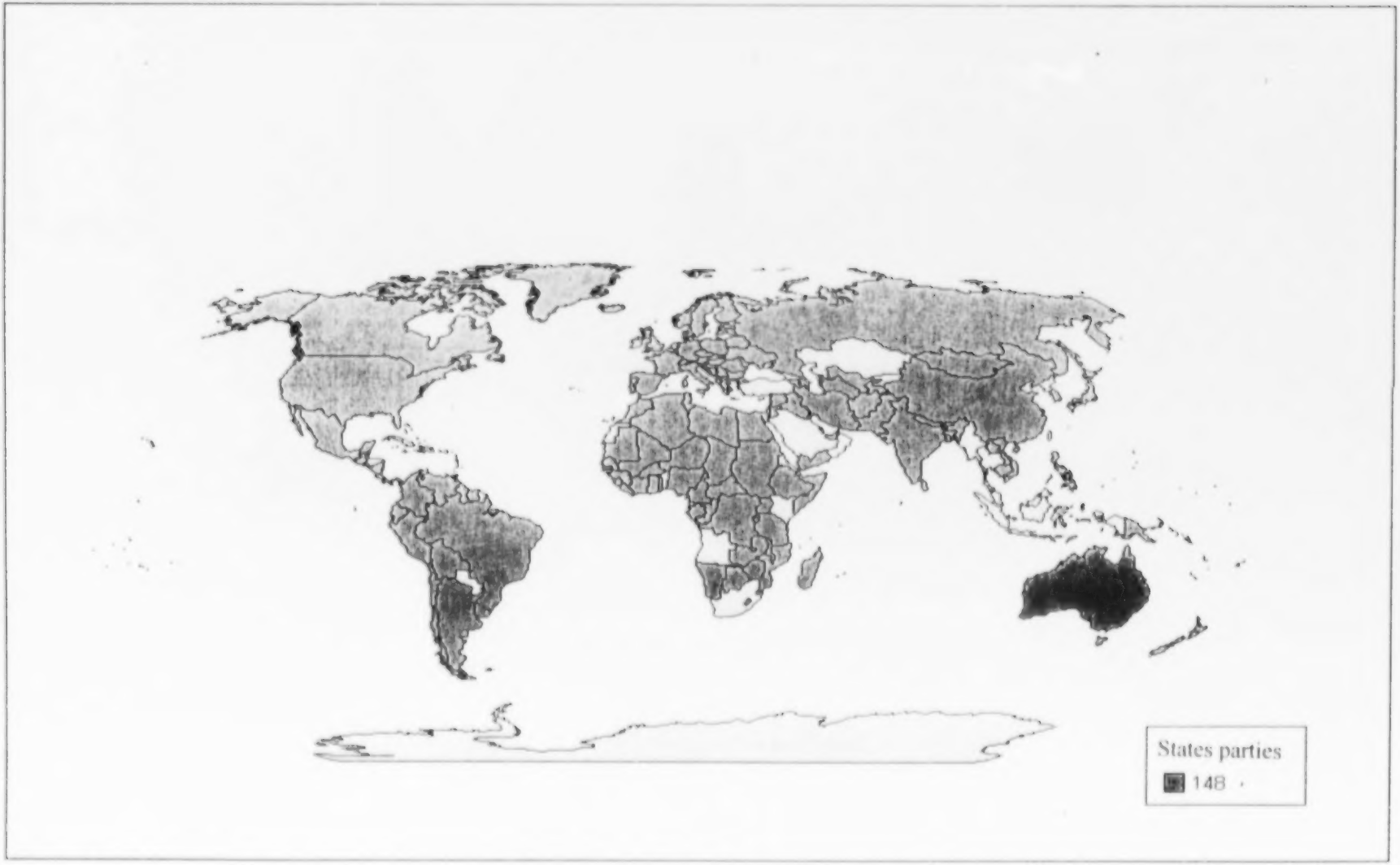

Figure 6

Convention on the Elimination of All Forms of Discrimination against Women

Figure I

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Status as at 31 January 1997

Figure 8

Convention on the Rights of the Child: Status as at 31 January 1997

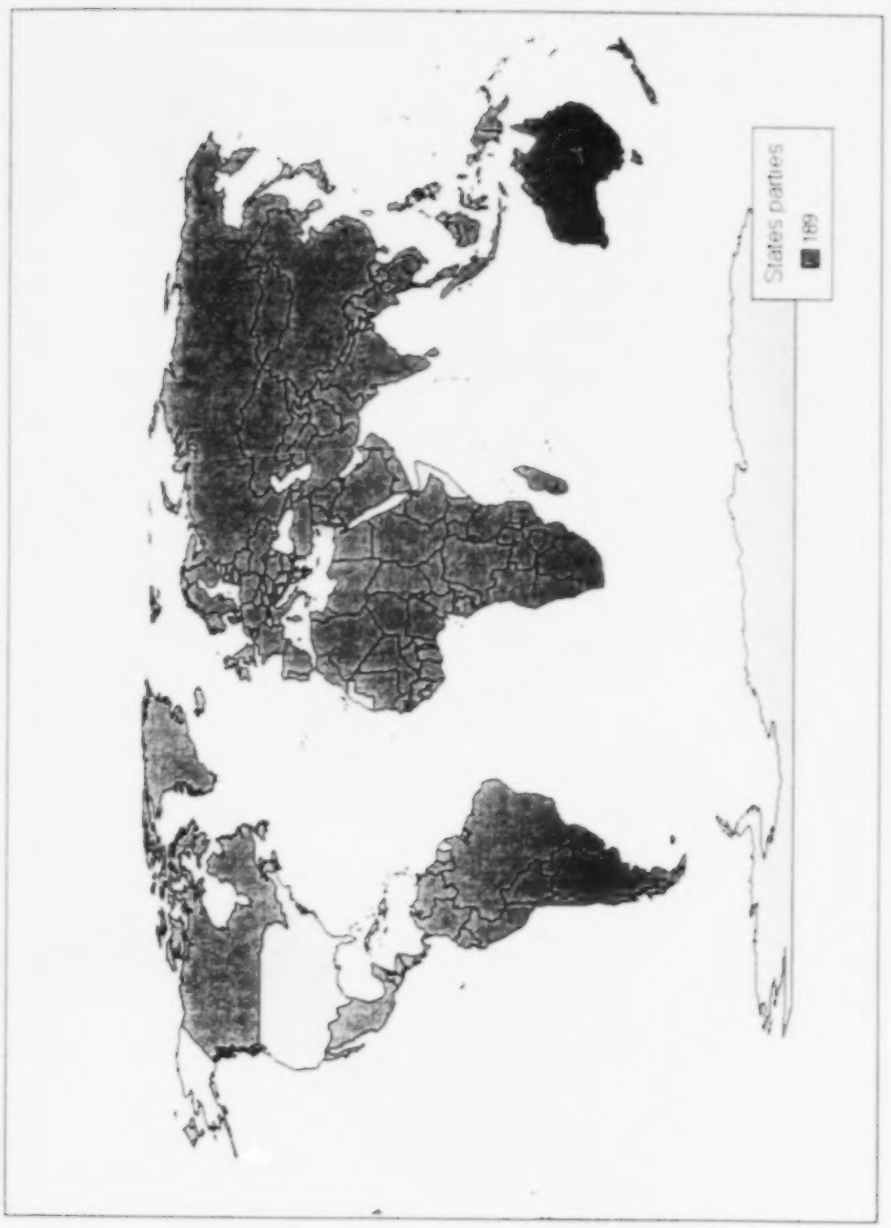

Figure 9

Human rights field activities: status as at 1 January 1997

Figure 10

Missions undertaken by the mechanisms of the Commission on Human Rights and Special Representatives of the Secretary-General

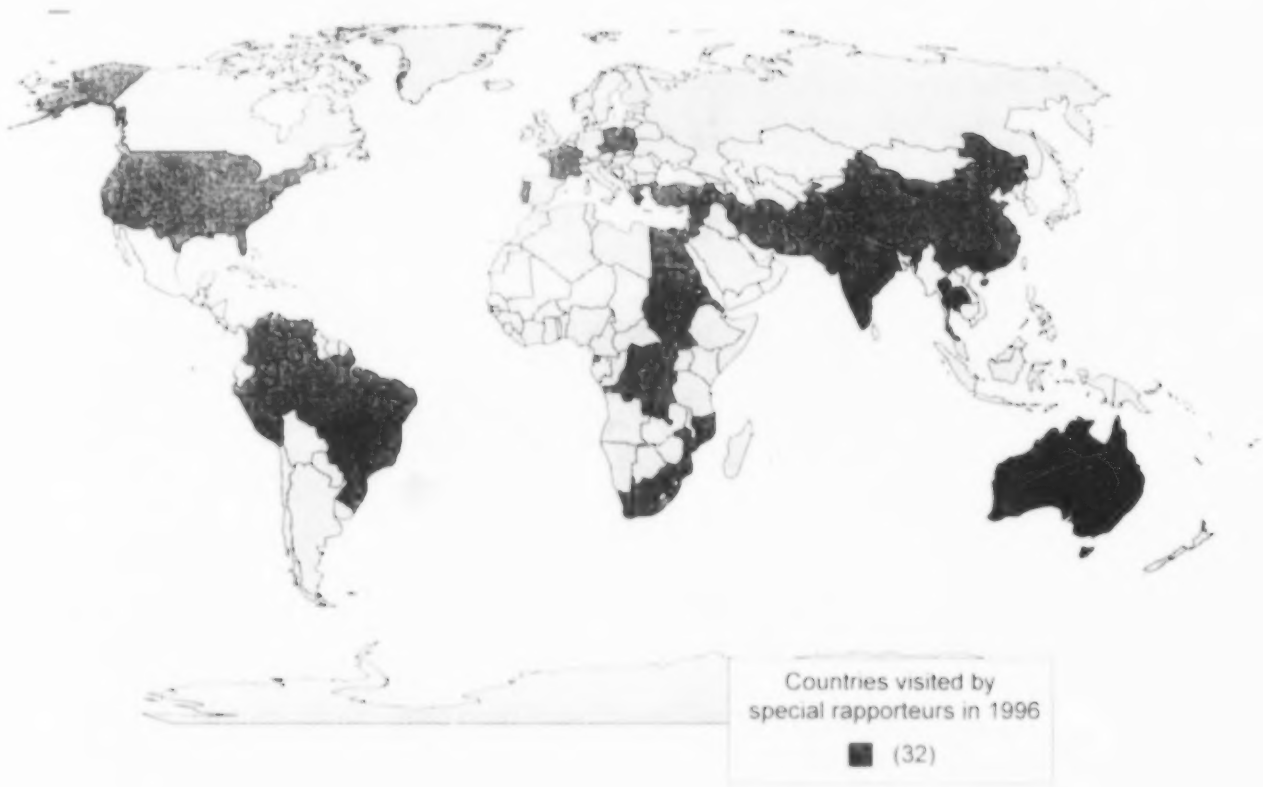

Figure 11

Ongoing and projected technical cooperation activities

Figure 12

Projected number of technical cooperation projects by region
(as at 31 January 1997)

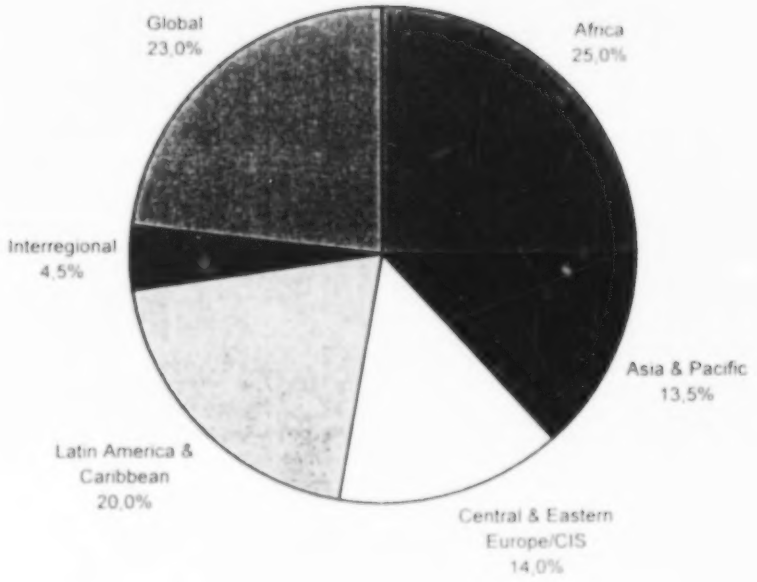

Figure 13

Projected allocations of resources for technical cooperation projects by region
(as at 31 January 1997)

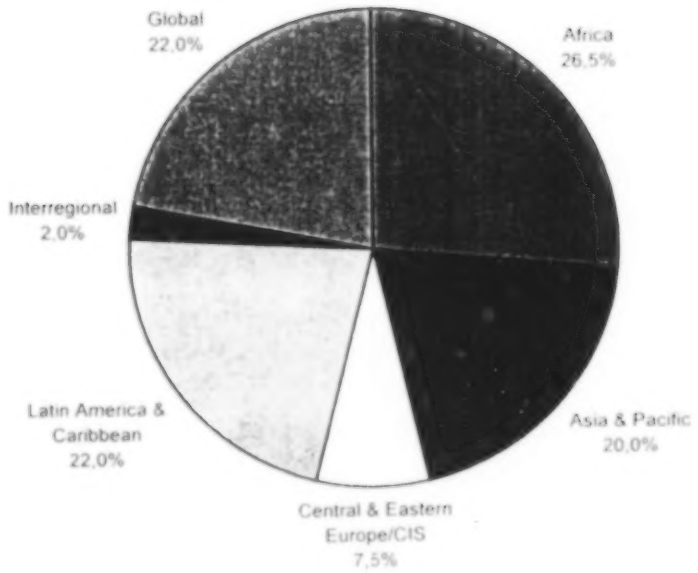

Figure 14

Donor countries to the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights